TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~401~~ 2338

PAUL C. COFFIN, APPELLANT,

vs.

JAMES B. OGDEN AND LUCIUS WOODRUFF.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED DECEMBER 2, 1871.

SUPREME COURT OF THE UNITED STATES.

No. 461.

PAUL C. COFFIN, APPELLANT,

vs.

JAMES B. OGDEN AND LUCIUS WOODRUFF.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Clerk's certificate	1	1
Subpœna ad respondendum	2	1
Bill of complaint	3	1
Appearance of defendants	10	5
Substitution of solicitors	11	5
Answers of defendants	12	5
Replication	19	9
Testimony of Edward S. Renwick	21	10
Testimony of Charles A. Miller	30	14
Deposition of Barthol Erbe	47	22
Certificate of commission	49	24
Defendants' Exhibit A	52	25
Complainant's Exhibit A	55	26
Schedule of letters-patent	57	26
Testimony of Bernhard Brosi	63	29
Henry Masta	81	40
Andrew Patterson	89	45
M. J. Woodruff	95	48
Henry B. Renwick	107	55
M. J. Woodruff, (recalled)	111	58
William Allport	113	59
Albert M. Hill	121	63
Cause heard	129	67
Decree	133	67
Decree	135	68
Order to take papers from files	137	69
Decree	139	69
Appeal to the United States Supreme Court	141	69
Bond on appeal	143	70

1 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the following pages, numbered from one to one hundred and forty-six, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of Paul C. Coffin against James B. Ogden and Lucius Woodruff, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this eighteenth day of November, in the year of our Lord one thousand eight hundred and seventy-one, and of the independence of the said United States the ninety-sixth.

KENNETH G. WHITE, *Clerk.*

[5-ct. int. rev. stamp canceled.]

2 [L. S.] The President of the United States of America to James B. Ogden & Lucius Woodruff, greeting:

You are hereby commanded that you and each of you personally appear before the judges of the circuit court of the United States of America for the southern district of New York, in the second circuit court, in equity, on the first Monday of July, A. D. 1868, wherever the said court shall then be, to answer a bill of complaint exhibited against you in the said court by P. C. Coffin, and to do further and receive what the said court shall have considered in that behalf. And this you are not to omit under the penalty on you and each of you of two hundred and fifty dollars.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New York, on the third day of June, in the year one thousand eight hundred and sixty-eight, and of the independence of the United States of America the ninety-second.

KENNETH G. WHITE, *Clerk.*

GEO. GIFFORD,
Compl't's Sol'r.

The defendants are required to enter appearance in the above cause in the clerk's office of this court, on or before the first Monday of July, 1868, or the bill will be taken pro confesso against them.

K. G. W., *Clerk.*

3 In the circuit court of the U. S. in equity.

To the honorable the judges of the circuit court of the United States for the southern district of New York:

P. C. Coffin, doing business in the southern district and city of New York, a citizen of the State of New York, brings this, his bill of complaint, against James B. Ogden, doing business in the city of New York, and citizen of the State of New York, and Lucius Woodruff, doing business in the city of New York, and citizen of the State of Connecticut. And thereupon your orator complains and says:

That he is informed and believes that one W. S. Kirkham, then of Bradford, Conn., was and is the original and first inventor of new and useful improvements in locks and latches, fully described in the letters

patent hereinafter mentioned, and which had not been known or used before his said invention, and which had not, at the time of his application for a patent, as hereinafter mentioned, been in use, or on sale with his consent or allowance, for more than two years.

4 And your orator, on information and belief, further shows unto your honors that said W. S. Kirkham, being so, as aforesaid, the first inventor and discoverer of said improvements, and being also a citizen of the United States, and having made application for letters-patent of the United States therefor, in due form of law, and having, in all things, complied with the acts of Congress in such case made and provided, and having assigned unto Charles A. Miller, of Philadelphia, Pennsylvania, all his right, title and interest in and to said invention, and having requested the honorable Commissioner of Patents to grant and issue said letters patent unto said Charles A. Miller, which said assignment was duly recorded in the Patent Office of the United States, prior to the date of said letters-patent as hereinafter mentioned, letters-patent of the United States were issued and granted unto said Charles A. Miller, of Philadelphia, Pennsylvania, on the 11th day of June, 1861, in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior, and countersigned by the Commissioner of Patents of the United States, bearing date the day and year last aforesaid, whereby there was granted and secured unto Charles A. Miller, his heirs, administrators, or assigns, or intended so to be, for the term of seventeen years from and after the date of said letters-patent, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvements, as set forth in said letters-patent, which are now remaining on record in the Patent Office of the United States, and by virtue whereof said Charles A. Miller became and was the sole owner of all the rights and privileges granted and secured, or intended to be granted and secured, in and by said letters-patent.

5 And your orator further shows unto your honors that said Charles A. Miller, having, for good and lawful cause, surrendered said last-mentioned letters-patent to the Commissioner of Patents, and having made due application therefor, and having in all things complied with the acts of Congress in such case made and provided, did, on the 27th day of January, 1863, obtain new letters-patent for the same invention, for the residue of said term of seventeen years; which said last-mentioned letters-patent were issued in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior, and countersigned by the Commissioner of Patents, and bearing date the day and year last aforesaid, as by the said last-mentioned letters-patent, or a duly authenticated copy thereof, in court to be produced, will appear.

And your orator further shows unto your honors that afterwards, to wit, on the 10th day of June, 1864, said Charles A. Miller, by an assignment in writing of that date, sold, assigned, and transferred unto your orator all his right, title, and interest in and to said letters-patent and invention; which said assignment was duly recorded in the Patent Office of the United States, as by said assignment, or a duly authenticated copy thereof, and the certificate of such recording thereto affixed, ready in court to be produced, will fully and at large appear.

And your orator further shows unto your honors that, by virtue of the premises, your orator became and now is the sole and exclusive

owner of said letters-patent and invention, and of all the rights and privileges granted and secured, or intended to be granted and secured thereby; and that since he became the owner thereof as afore-
6 said he has invested and expended large sums of money, and been to great trouble in and about said invention, and for the purpose of carrying on the business and manufacturing and selling said invention, and making the same profitable to himself and useful to the public; and that said invention has been and is of great benefit and advantage; and that locks and latches have been made according to said invention, and sold by your orator to great advantage to the public; and that the public have generally acknowledged and acquiesced in the aforesaid rights of your orator; and your orator believes that he will realize and receive large gains and profit therefrom, if infringements by said defendants and their confederates shall be prevented.

Yet the said defendants, well knowing the premises and the rights secured to your orator aforesaid, but contriving to injure your orator and to deprive him of the benefits and advantages which might, and otherwise would, accrue unto him from said invention after the issuing of the letters-patent as aforesaid, and after your orator became the owner thereof as aforesaid, and before the commencement of this suit, did, as your orator is informed and believes, without the license or allowance, and against the will of your orator, and in violation of his rights, and in infringement of the aforesaid letters-patent, unlawfully and wrongfully, and in defiance of the rights of your orator, make, construct, use, and vend to others to be used, the said invention, and did make, construct, use, and vend to others to be used, locks and latches made according to, and employing and containing said invention, and that they still continue so to do; and that they are threatening to make the aforesaid locks and latches in large quantities, and to supply the market therewith, and to sell the same; all in defiance
7 of the rights acquired by and secured to your orator as aforesaid, and to his great and irreparable loss and injury, and by which he has been and still is being deprived of great gains and profits which he might, and otherwise would, have obtained, but which have been received and enjoyed, and are being received and enjoyed, by the said defendants by and through their aforesaid unlawful acts and doings.

And your orator further shows unto your honors, on information and belief, that the said defendants have sold large quantities of said locks and latches, and have a large quantity on hand, which they are offering for sale, and have made and realized large profits and advantages therefrom, but to what extent and how much exactly, your orator does not know, and prays a discovery thereof. And your orator says that the use of said invention by said defendants, and their preparation for and avowed determination to continue the same, and their other aforesaid unlawful acts, in disregard and defiance of the rights of your orator, have the effect to encourage and induce others to venture to infringe said patent, in disregard of your orator's rights.

And your orator further shows unto your honors that he has caused notice to be given to said defendants of said infringements, and of the rights of your orator in the premises, and requested them to desist and refrain therefrom, but they have disregarded said notice, and refused to desist from said infringements, and still continue to make and sell said locks and latches; and forasmuch as your orator can have no adequate relief, except in this court, to the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief

hereby prayed, and may upon their and each of their corporal oaths, and according to their respective best and utmost knowledge,
8 remembrance, information, and belief, full, true, direct, and perfect answers make to the premises, and to all the several matters hereinbefore stated and charged, as fully and particularly as if severally and separately interrogated as to each and every of said matters, and may be compelled to account for and pay to your orator the profits by them acquired, and the damages suffered by your orator from the aforesaid unlawful acts.

And your orator prays that said defendants, their servants, agents, attorneys, and workmen, and each and every of them, may be restrained and enjoined by the order and injunction of this honorable court from directly or indirectly making, constructing, using, vending, delivering, working, or puting into practice, operation, or use, or in anywise counterfeiting or imitating the said invention, or any part thereof, or any locks and latches made in accordance therewith, or like or similar to those which they have heretofore made; and that the said defendants may be decreed to pay the costs of this suit; and that your orator may have such further relief, or such other relief, as to this honorable court shall seem meet, and as shall be agreeable to equity.

May it please your honors to grant unto your prator the writ of injunction issuing out of and under the seal of this honorable court, commanding, enjoining, and restraining the said defendants, James B. Ogden and Lucius Woodruff, and their servants, agents, attorneys, and workmen, and each and every of them, as is hereinbefore in that behalf prayed.

May it please your honors to grant unto your orator the writ of subpœna issuing out of and under the seal of this honorable court,
9 directed to the said defendants, commanding them by a certain day, and under a certain penalty, to be and appear in this honorable court, then and there to answer the premises, and to stand to and abide such order and decree as may be made against them.

And your orater will ever pray, &c.

PAUL C. COFFIN.

GEO. GIFFORD,
Compt's Sol'r and of Counsel.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this third day of , 1868, before me personally appeared Paul C. Coffin, the above-named complainant, who, being by me duly sworn, doth depose and says that he has read the foregoing bill of complaint subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

[L. S.]

GEO. H. COLLINS,
Notary Public, N. Y. C.

Filed June 3, 1868.

10 United States circuit court, southern district of New York.

P. C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

SIR: Please to enter my appearance for the defendant in the above cause.

Dated Providence, R. I., June 5th, 1868.

Yours, &c.,

BENJ. F. THURSTON,
Sol'r for Def't.

To K. G. WHITE, Esq.,
Clerk U. S. Circuit Court.

(Endorsed:) U. S. circuit court for the southern district of New York. P. C. Coffin vs. James B. Ogden & Lucius Woodruff. Not. appearance B. F. Thurston, def'ts' sol'r, Providence, R. I. Filed June 25, '68.

11 Circuit court of the U. States, so. dist. of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

I hereby consent that S. D. Law, esq., of New York City, may be substituted as solicitor for *for* defendants in my stead.

New York, Sept. 4th, 1868.

BENJ'N F. THURSTON.

(Endorsed:) Circuit court U. S., so. district New York. P. C. Coffin vs. J. B. Odgen and L. Woodruff. Consent for substitution def'ts' sol'rs. Filed Sept. 7, 1868.

12 United States circuit court, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF. } In equity.

The several answers of James B. Ogden and Lucius Woodruff, defendants, to the bill of complaint of the said above-named complainant.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefits and advantages of exception to the many errors and insufficiencies in the complainant's said bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as these defendants are advised is material for them to make answer unto, answering, say:

That they are informed and believe, and therefore admit, that W. S. Kirkham, in the said bill of complaint mentioned, made application to the proper Department of the Government of the United States, for letters-patent for certain improvements in locks and latches, and that letters-patent of the United States were granted to Charles A. Miller, of Philadelphia, as the assignee of said Kirkham, for such alleged improvements, which said letters-patent bear date the 11th day of June, 1861, as is set forth in said bill of complaint; but these defendants

do not know, and are not informed, save by said bill of complaint,
13 whether the application for said letters-patent was made by said W. S. Kirkham, as stated in said bill of complaint, and as required by law to be made, and whether said invention was assigned to said Miller, or whether said letters-patent were duly, legally, and properly granted, and they leave the complainant to make such proof of the said several matters as he may be advised.

And these defendants, further answering, say they are informed and believe that the said letters-patent so granted to said Charles A. Miller, and bearing date the said 11th day of June, 1861, were afterwards surrendered to the Commissioner of Patents, and new and re-issued letters-patent granted therefor to said Charles A. Miller, bearing date the 27th day of January, 1863; but these defendants are not informed, save by said bill of complaint, and do not know whether such surrender was made and such proceedings had thereon as is stated in said bill of complaint, and leave the complainant to make proof thereof as he may be advised.

And these defendants, further answering, on information and belief, deny that said original patent was surrendered to the Commissioner of Patents, and the re-issue thereof obtained for good and lawful cause, or because the said original patent was inoperative and invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming, in his specification, as his own invention, more than he had a right to claim as new; and these defendants further allege, if said original letters-patent were or had been so inoperative or invalid, that such error, defect, or insufficiency did not arise by inadvertency, accident, or mistake, and without any fraudulent, or deceptive intention on the part of the said Charles A. Miller;
14 but, on the contrary, these defendants, on like information and belief, allege that such surrender of said letters-patent, bearing date the 11th day of June, 1861, was made for other and different causes than those for which letters-patent can be lawfully surrendered, and among other things was made to obtain, and that said Charles A. Miller did obtain, contrary to the provisions of the statute in such cases made and provided, said re-issued letters-patent for more and other matters and things than those of which said W. S. Kirkham was the first and original inventor, and more than were described or included in the specification attached to the original patent of June 11th, 1861, and that said re-issued letters-patent, on which this suit is brought, does include and embrace inventions and things of which said W. S. Kirkham was not the original and first inventor, and that said re-issued letters-patent is not for the same invention for which said original letters-patent was issued; and these defendants are advised and believe, and will insist, that said re-issued letters-patent of January 27, 1863, are void and of no effect.

And these defendants, further answering, say that they have no knowledge or information, other than that derived from the bill of complaint in this cause, whether the said Charles A. Miller assigned and transferred, as is alleged in said complaint, his right, title, and interest in said letters-patent and invention to the complainant in this cause, and they leave the complainant to make such proof thereof as he may be advised.

These defendants, further answering, on information and belief, deny that the said W. S. Kirkham was the first and original inventor or discoverer of the invention or thing described and patented, or of a
15 substantial and material part thereof, claimed as new, in the said

letters-patent so granted to the said Charles A. Miller on the said 11th day of June, 1861. And these defendants, on like information and belief, allege that the said invention described and patented in said letters-patent, or material and substantial parts thereof, had been, anterior to any supposed discovery or invention thereof by the said W. S. Kirkham, known to and used by divers persons in the United States and elsewhere, and, among other instances, to the following persons:

To Barthol Erbe, who resides at Birmingham, near Pittsburg, Penn., and who had knowledge of the same at said Pittsburg.

To Andrew Paterson, Henry Masta, and Bernhard Brosby, all of whom reside at Pittsburg, and who had knowledge of the same at Pittsburg, Penn.

These defendants, further answering, as they are advised and believe, allege that the claims annexed to and making a part of said re-issued letters-patent so granted to said Miller, bearing date the 27th day of January, 1863, and particularly the first claim annexed thereto, are not for any patentable invention, or for any device or mechanism arranged and operating for a particular purpose or to produce a particular effect; but, on the contrary, such claims are for an effect or function irrespective of any particular mechanism, and are, therefore, not patentable, and that such patent is, therefore, null and void.

And these defendants, further answering, say, as they are advised and believe, if the said re-issued patent is a good and valid patent, and is not for an effect or function irrespective of the means or mechan-

16 ism to produce an effect, that the locks and latches made by the Russell & Erwin Manufacturing Company, as hereinafter set forth, do not contain and employ the invention or improvement, or any part thereof, set forth and described in the said re-issued patent of January 27, 1863, and patented therein, and are not, in any respect whatever, an infringement of said patent; but these defendants allege that said locks, so made by said company, and which are alleged to be an infringement of the said re-issued patent, are not the same, either in construction or operation, with the lock or latch described and patented in said re-issued patent, but are constructed in a manner substantially different from that described in said patent, and act or operate upon a different principle or mode of operation, and are wholly unlike, in construction and operation, the lock or latch described in said patent.

These defendants, further answering, deny that they, or either of them, individually or for his or their own account, are or have been engaged in the manufacture and sale of locks and latches, of any kind whatever, since the date of the said re-issued letters-patent of January 27, 1863, granted to said Miller. But these defendants, further answering, admit that they are interested in and stockholders of the Russell & Erwin Manufacturing Company, a corporation doing business at New Britain, in the State of Connecticut, and that said company manufacture at said New Britain many and different articles of hardware, and, among others, make and sell locks and latches of various kinds, and that said company has also a place of business, or a branch of their establishment, in the city of New York, where are kept on sale the several articles manufactured by said company.

17 But these defendants, further answering, as they are advised and believe, deny that said Russell & Erwin Manufacturing Company make or sell any locks and latches made according to and employing and containing the invention described and patented in said re-issued patent, and which operate upon the principle or in the manner set forth and described therein.

And these defendants, further answering, say that they have no knowledge, except that derived from the bill of complaint in this cause, whether the complainant therein named has invested and expended large or any sums of money, and been at great trouble in and about said invention, and for the purpose of manufacturing and selling the same, or that said invention has been of great or any profit; but these defendants, on information and belief, deny that said complainant has expended large sums of money in manufacturing and selling locks and latches made according to said invention, and sold to great advantage to the public, and that the public have generally acquiesced in and acknowledged the rights of said complainant in said invention.

And these defendants deny all and all manner of combination, with any person or persons whatsoever, and all intention to injure or destroy any rights or privileges secured to or belonging to the complainant, or to deprive him of any gains or profits to which he may be legally entitled by virtue of the premises.

And these defendants, further answering, deny that the said complainant is entitled to the relief, or any part thereof, in his said complaint demanded.

And these defendants pray the same advantage of their aforesaid answer as if they had pleaded or demurred to the said bill of complaint.

18 Without this, that any matter or thing therein contained, and not specifically admitted or denied, is true to the knowledge of these defendants.

All of which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct, and pray hence to be dismissed with their reasonable costs and charges in this behalf, most wrongfully sustained.

LUCIUS WOODRUFF.
JA'S B. OGDEN.

S. D. LAW,
Sol'r for Def'ts.
B. F. THURSTON,
Providence, R I., of Counsel.

DISTRICT OF CONNECTICUT, *County of* , *ss:*

Lucius Woodruff, one of the above-named defendants, being duly sworn, deposes and says that he has read the foregoing answer, and knows the contents thereof, and that the same are true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

LUCIUS WOODRUFF.

Sworn to before me this 2d day of September, 1868.
[L. S.] A. P. COLLINS,
Notary Public.

DISTRICT OF NEW YORK, *Southern District, ss:*

19 James B. Ogden, one of the above-named defendants, being duly sworn, deposes and says that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as those matters he believes it to be true.

JA'S B. OGDEN.

Subscribed and sworn to before me this 3d day of September, 1868.
[L. S.] JAMES H. FAY,
Notary Public, N. Y. City.

Filed Sept. 7, 1868.

United States circuit court, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF. } In equity.

The replication of Paul C. Coffin, complainant, to the answer of James B. Ogden and Lucius Woodruff, defendants.

This repliant, saving and reserving to himself, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer for replication thereunto, says that he will aver, maintain, and prove his bill of complaint to be true, certain, and sufficient in
20 the law to be answered unto; and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

GEO. GIFFORD,
Sol'r and of Counsel for Complainant.

Filed Sept. 26, 1868.

Circuit court of the United States for the southern district of New York.
In equity.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

Testimony taken, on the part of the complainant in the above action, by Joseph Gutman, jr., examiner, etc., under the 67th rule in equity, and pursuant to notice.

21 OCTOBER 16, 1868—10 *a. m.*

Present, S. D. Law, esq., of counsel for defendants.

Examination adjourned to October 24, 1868, at 11 a. m.

OCTOBER 24, 1868—11 *a. m.*

Examination further adjourned to October 28, 1868, at 10 a. m.

OCTOBER 28, 1868, *at* 10 *a. m.*

Present, George Gifford, esq., of counsel for complainant, and Mr. Thurston and S. D. Law, esq., of counsel for defendants.

Mr. Gifford, counsel for complainant, puts in evidence letters-patent to Charles A. Miller, as assignee of W. S. Kirkham, dated January 27, 1863, and numbered 1390, which is a re-issue of original letters-patent dated June 11, 1861, for an improvement in locks and latches, marked Complainant's Exhibit A. Also, an assignment by Charles A. Miller to the complainant, together with a certificate of the recording thereof, which assignment is dated the 10th of June, 1864, marked Complainant's Exhibit B. The defendants' counsel waives formal proof of said assignment.

EDWARD S. RENWICK, a witness of lawful age, produced on the part of complainant, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Gifford, of counsel for complainant, he deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Edward S. Renwick. I am 45 years of age. I
22 reside in the city of New York. I am occupied principally in soliciting patents, and in acting as expert in the trial of patent causes.

Q. 2. Have you read and do you understand the contents of the letters-patent, marked Exhibit A, in this case?

A. I have read the letters-patent referred to in the question, and believe that I understand the contents thereof.

Q. 3. Look at the lock now shown you, marked Exhibit C, and state whether or not it is made in conformity to the specification of that patent.

A. I have examined the lock, marked Exhibit C, and have compared it with the description and specification of the said patent, and I find that it is made in conformity with the specification of that patent.

Q. 4. Look at the lock now shown you, marked Exhibit D, and state whether or not you find contained therein the invention described and specified in the patent, Exhibit A, as the invention of W. S. Kirkham, and give your reasons for any conclusion you may express thereon.

A. I have examined the lock, marked Exhibit D, and I find contained in it the entire invention described and specified in the said patent, Exhibit A. My reasons for this opinion are as follows: The invention specified in said patent, as I understand it, consists of two combinations of instrumentalities. The first of these combinations is composed of a divided hub or follower, and a reversible latch, so combined together that the arms, or their equivalents, of the divided hub may be released for the purpose of allowing the latch to be reversed or turned. This combination, as I understand it, requires the division of the hub or follower into parts, one of which carries the arms for operating the
latch, and is movable relatively to the residue of the hub, so
23 that, when it is released therefrom, it will permit the latch to be moved a greater distance than is necessary for operating the latch for ordinary purposes, for the purpose of permitting the latch to be turned on its longitudinal axis, for the purpose of reversing the position of its inclined side, so as to suit the lock to either a right-hand door or to a left-hand door, as required. The combination requires further the construction of the latch in such manner that its beveled head can be turned upon the parts with which it is connected when it is moved the supplementary or greater distance that is permitted by the release of the movable part of the hub or follower from the residue.

The second of the two combinations consists of a peculiar construction and arrangement of the parts of a divided hub or follower that is

combined with a turning or reversible latch, and is operated by a turning knob spindle, the construction and arrangement being such that when the spindle is inserted through the parts of the divided hub, the release of the movable part and the consequent supplementary or greater movement of the latch, for the purpose of permitting it to be reversed, is prevented by the presence of the spindle, the spindle in such case operating as a bolt or pin, to hold the parts of the divided hub in their relative positions, and thereby prevent the reversing or turning of the latch. I find that the lock, Exhibit D, contains a divided hub and a reversible latch combined together, so as to operate in the same manner as the combination of divided hub and reversible latch recited in the patent, and constituting the first part of the invention set forth therein; the hub in said Exhibit D being divided into parts, one of which carries the arms for operating the latch, and is movable relatively to
24 the rest of the hub, precisely as the corresponding part of the hub described in the patent and designated therein by the letter *f*. The latch, also, in said Exhibit D, is constructed, as described in the said patent, so that its beveled head can be turned upon the parts with which it is connected, when it is moved the supplementary or greater distance that it is permitted by the release of the movable part of the hub from the residue, the head of the latch of Exhibit D corresponding in this particular with the head of the latch designated by the letter *a* in the patent.

I further find that Exhibit D contains the second combination recited in the said patent as the invention, because it has the same construction and arrangement of the parts of the divided hub, which in said Exhibit D is combined with the reversible latch and is operated by a turning spindle, the presence of the spindle in the hub, in said Exhibit D, preventing the release of the movable part of the hub, and the consequent supplementary movement of the latch for the purpose of permitting it to be reversed. Upon comparing the said Exhibit D, and the drawings of the patent, I have noticed that the slide designated the letter E in the patent is connected with the shank of the latch through the intervention of a lever, D, while in the said Exhibit D the corresponding slide is connected directly with the shank of the latch; but I am of opinion that this difference in the connection of the parts of the lock does not prevent the said Exhibit D from embodying the combinations recited in the patent, because, as I understand the said patent, the combinations recited on it as the invention of Kirkham are not restricted to any peculiar'ties in the connecting mechanism between the turning head of the latch and the part of the divided hub which carries the arms for operating the latch, and further because the parts of
25 the divided hub and the head of the latch in said Exhibit D are constructed substantially in the same manner as the corresponding parts described in the said patent, and operate upon each other in the same manner as is described in the patent. I have further noticed that in said Exhibit D the hub is divided into three parts, while on the lock represented in the drawings of the patent the hub is divided into but two; but I am of opinion that this difference in the division of the hub is immaterial as respects the combinations I have before referred to, because the movable part which carries the arms for operating the latch in Exhibit D corresponds with the movable part carrying the arms for operating the latch in the said patent, and the division of the residue of the hub in Exhibit D into two parts is a mere matter of construction which undoubtedly enables the lock to be produced for a less sum of money, but which does not affect in any respect the combination

of a divided hub with a reversible latch, or the construction and arrangement of a divided hub, in that combination, relatively to the spindle, which, when inserted in the hub, prevents the reversal of the latch.

And being cross-examined by Mr. Thurston, he deposes and says as follows:

X-q. 1. Do you understand the construction of the firs' claim in Kirkham's patent to comprehend broadly the combination of a divided hub or follower with a reversible latch; and, in comparing the lock, Exhibit D, with the lock described in the plaintiff's patent, have you assumed such to be the construction of his first clause of claim?

A. I understand the construction of the first claim of Kirk-
26 ham's patent to be such as not to comprehend broadly the combination of every divided hub or follower with a reversible latch; and, in comparing the lock, Exhibit D, with the lock described in the plaintiff's patent, I have assumed that the first claim does not comprehend broadly the combination of every divided hub or follower that might possibly be made with a reversible latch.

X-q. 2. What limitation in the specification of claim do you find that will warrant the assumption that there is any form of divided hub in combination with a reversible latch not comprehended by such claim?

A. I find the following language in the said first claim: "So dividing the hub or follower * * * " "that the arms or their equivalent of the divided hub or follower may be released * * *." This language, as I understand it, taken in connection with the preceding description, requires such a division of the hub or follower that one part thereof shall carry the arms for operating the latch, and that the said part shall be movable in such manner that the said arms may be released from the residue for the purpose set forth in said claim.

X-q. 3. My inquiry was limited purposely to the language of the specification of the claim, and did not seek to ascertain in what way you, as an expert, would deem it proper that the invention should be stated. I repeat, therefore, do you find in the specification of claim any limitation that will warrant the assumption that there is any form of divided hub in combination with a reversible latch not comprehended by such claim, and desire you to regard the language as if it stood alone?

A. I do.

X-q. 4. Do you find in the specification of claim any words referring to the preceding description, which words would authorize ref-
27 erence to such description in order to give effect to the terms employed in the specification of claim?

A. I do not find in the first claim any language which in words refers to the preceding description.

(Mr. Thurston objects to further response.)

But I never knew a claim in my life the words of which did not require reference to the preceding description in order to ascertain their meaning, and the words of the claim in this patent are the same as the words of other claims in this particular.

(Objected to.)

X-q. 5. When you say that the words of the claim of the patent are the same as the words of other claims in this particular, do you mean anything more than this, that for the meaning of the term "hub" or "follower," for example, you are obliged to refer to the description to ascertain to what structure the patentee applies that name?

A. I mean that, in order to get the precise meaning of the words used in the claim, reference must be had to the description.

X-q. 6. The words "substantially as described," "substantially as herein set forth," or equivalent expressions, are almost universally found in specifications of claims, are they not?

A. These words, or something to the same effect, are most generally found in the claims of patents.

X-q. 7. Is there anything in this first specification of claim which seeks to limit the patentee to the arrangement and combination of parts which he has substantially described?

A. There is language in the first specification of claim which,
28 as I understand it, limits the patentee to substantially the combination of parts which he has described.

Q. 8. Quote the language.

A. I quote the whole claim.

X-q. 9. Into how many parts do you find the hub of *of* Exhibit D divided?

A. Into three.

X-q. 10. Into how many parts do you find the hub of Exhibit C divided?

A. Into two.

X-q. 11. Is the hub in Exhibit D divided in the same way as the hub in Exhibit C?

A. It is divided substantially in the same way, in the respect that the hub in each case is divided into parts, one of which carries the arms that operate the latch, and is movable transversely to the axis of the hub for the same purpose and in the same manner. The hub of Exhibit D has a supplementary division which is not found in Exhibit C, such supplementary division being evidently for the purpose of enabling the parts to be constructed and applied to each other at a low cost, the supplementary division in Exhibit D permitting the parts of the hub to be readily movable and cast.

X-q. 12. Suppose the hub was not divided, as shown in the plaintiff's description, when the spindle was removed from the lock, would it or not be the shoulders or the hub projecting through the lock-plate that would prevent the latch from being pulled forward far enough to be reversed.

A. If the hub were made solid and no play was made between its arms and the slide on which they act, or in the connection between the slide and the latch, sufficient to permit the supplementary movement of the latch, the latch could not be pulled forward far enough to be
29 reversed, and the position of the shoulders of the hubs in the lock-plates would be one of the things which prevented such movement.

X-q. 13. Suppose, now, that instead of the arrangement shown in the plaintiff's patent for dividing the hub you should take a lock with a solid hub of ordinary construction, and divide such hub so that the central portion should be no thicker than the space between the walls of the lock-case, the two remaining portions of the hub being like washers, and of the same thickness as the walls of the lock-case, being in effect the division of the hub into three parts, would or not such divided hub, when combined with a reversible latch, be within the plaintiff's patent, in your opinion?

A. It would, if the central portion of the hub could be moved so as to permit of the supplementary movement of the latch to enable it to be reversed.

E. S. RENWICK.

Subscribed and sworn to before me this 28th day of October, 1868.
JOSEPH GUTMAN,
Examiner, &c.

30 APRIL 16, 1869—10 *a. m.*

Present, Mr. Gifford, of counsel for complainant, and Messrs. Law & Thurston, of counsel for defendant.

CHARLES A. MILLER, a witness of lawful age, produced on the part of the complainant, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and, being examined by Mr. Gifford, he deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Charles A. Miller. I am 36 years of age. I reside at Philadelphia, Pa. I am a hardware-manufacturer's agent.

Q. 2. Did you know W. S. Kirkham?

A. I did, sir.

Q. 3. Do you know whether he is living now or dead?

A. He is dead.

Q. 4. When did you first become acqaainted with said Kirkham?

A. In 1856.

Q. 5. Are you the Charles A. Miller mentioned as assignee in the re-issued patent dated the 27th of January, 1863, and marked Exhibit A, in this case?

A. Yes, sir.

Q. 6. Please explain your relation to said Kirkham from your first acquaintance with him, and what, if anything, you and he had to do together respecting locks and their improvement, including explanations given by him, and the exhibition of drawings, models, &c.

31 A. I became agent for the Squer & Parsons Manufacturing Company, lock manufacturers of Branford, Connecticut, in the year 1856, for the city of Philadelphia, and first formed my acquaintance with William S. Kirkham in that year. He was then acting as the superintendent at the works of that company. There were sold in Philadelphia a large quantity of locks made by Livingston, Roggar & Co., of Pittsburgh, that were applicable to a right or a left handed door, made under patents of John P. Sherwood and Calin Adams. These locks were commanding at the time a price of one dollar a dozen more than locks made in the East, not costing more to manufacture. Knowing from the fact the desirability of the lock, I urged upon Mr. Kirkham the necessity of the Squer & Parsons Manufacturing Co. making a lock that would either answer for a right or a left handed door. As agent for the Squer & Parsons Manufacturing Company, I frequently was called to the factory to consult with them upon their business, at which times I had conversation with Mr. Kirkham in reference to right and left hand locks. As near as I can remember in the latter part of 1858 he exhibited to me a lock with a bill shaped latch, operating upon a keeper inclining something like an old English carpenter's lock. He sent this lock to me about the latter part of 1858, to Philadelphia, for my opinion as to its merits. I returned it to him stating my objections, when in a month or two afterwards he sent me a lock that he patented, I think in March 15, 1859. It had a latch projecting from the lock of diagonal shape which was worked upon a centre and moved in a circle if no obstructions came in its way, and in operating upon the door it operated upon a keeper on which was an inclined plane. At first I had considerable difficulty in introducing this lock, but it was but a short

time before I increased the sales to about 5,000 in a year in
32 Philadelphia. As this patent that I have just spoken of was not applicable to a mortise lock and would only answer for cheap rim locks, and feeling the want of some plan that would answer for making all locks right and left, I called Mr. Kirkham's attention to it and urged him to try and make such improvements as would answer that purpose. About this time, the latter part of 1859, Mr. Kirkham and myself determined to start the lock-business in Philadelphia, and we were both anxious to have as a basis for manufacture good and desirable right and left hand locks. I was in the habit of visiting Branford every month or six weeks, and during each visit Mr. Kirkham and myself compared notes and suggestions as to the improved right and left hand lock that we had been talking about. In 1860 (up to that time we had been talking about locks) he came to Philadelphia in the beginning of September. I base the fact that he was there at that time on a letter written by the president of the company that Mr. Kirkham would be to see me in a few days. He brought with him a copy or a drawing of a lock with a hub or follower as near like the hub or follower in Exhibit C as it could be. Exhibit C he sent to me about ten days or two weeks afterwards, and I had it in my possession up to the time that I sold the patent to Paul Chase Coffin.

Q. 7. Have you a store in Philadelphia where you sell goods of hardware manufacturers?

A. Yes, sir.

Q. 8. Please look at the lock marked "Bill-latch" and state whether that is one of the kind which you say Kirkham produced, with a bill-shaped latch, and was not applicable to a mortise lock?

A. Yes, sir.

(Lock annexed, and marked "Bill latch, J. G., Jr.")

33 And being cross-examined by Mr. Thurston, he deposes and says:

X 9. When you speak of Exhibit C as having been in your possession within ten days after the time in September when Kirkham showed you a drawing, do you mean to be understood that this identical lock was put in your possession by Kirkham?

A. I mean this, that Mr. Kirkham sent me, to the best of my knowledge, this lock, Exhibit C, or one as near like it as I could tell, with hub or follower like that in Exhibit C.

X 10. At what date during the month of September do you fix the time when Exhibit C came into your possession?

A. My impressions are that it was ten days or two weeks after Mr. Kirkham was there; he was there about the first of September, 1860, in Philadelphia, to see me.

X 11. You fix the time, then, as probably not later than the 15th of September?

A. I do not think it was later.

X 12. How long was Exhibit C in your possession?

A. I can't tell how long it was in my possession.

X 13. Did you examine it attentively?

A. Yes, sir.

X 14. How many times, probably, did you look at its interior mechanism?

A. I suppose I have had it open a thousand times, showing it to the trade.

X 15. Before you delivered it to Coffin?

A. Yes, sir.

X 16. Having examined its interior works so many times and with such interest, do you feel any doubt, upon an examination of its interior mechanism now, that it is the identical lock, and if you have any such doubt please state it?

34 A. I haven't any doubt, but yet I haven't had this Exhibit C in my possession every hour, but have had it most of the time in my desk at my store; but if by any possibility this lock has been altered in any way, it has not been in the hub or follower.

X 17. Do you recognize the hub or follower as the identical hub or follower which you inspected and exhibited so many times?

A. I do.

X 18. The interior mechanism of a lock appears to have been hand-made, does it not?

A. No, sir; it don't look like a lock manufactured for use.

X 19. To the best of your recollection, when did this Exhibit C first go out of your possession into the hands of Mr. Coffin, the present complainant?

A. At the time I sold the patent.

X 20. Will you have the goodness to look at the cap-plate of Exhibit C and state what letters and figures you find cast thereon?

A. "Pat'd Nov. 6, 1860."

X 21. How do you account for that?

A. I can't account for that; I knew that this date was that of a patent for a lever which I see in Exhibit C.

X 22. Yes, but how did this lock mechanism and divided hub get inside of the case by the 15th of September, 1860, which case couldn't by any possibility have been cast until after the date of the patent, Nov. 6, 1860, cast upon its face?

A. I do not know.

X 23. That case evidently belongs to another description of lock, does it not?

A. Yes, sir, it does.

X 24. What style of lock was put up in that case?

A. I have no recollection of any other kind of lock being put up in that case but this one.

35 X 25. Do you know what the improvement was that was patented Nov. 6, 1860?

A. Yes, sir.

X 26. What was it?

A. It was this lever-spring in the lock, Exhibit C.

X 27. Were not locks manufactured under the patent referred to of Nov. 6, 1860?

A. Yes, sir.

X 28. Did you sell them as agent for the company?

A. I don't remember whether we sold these locks or not. There was some few of them made at the factory. Let me correct that. We did sell them, but not a great many.

X 29. Have you any doubt that the mechanism in Exhibit C has been put into a lock-case made for and originally intended to hold a lock made according to the patent of Nov. 6, 1860?

A. No, sir. It must have been so, evidently.

X 30. When did Squer & Parsons first put into the market locks with cases marked with the date of the patent, Nov. 6, 1860?

A. I can't remember.

X 31. Do you not, on reflection, remember that you had such locks on sale before the exhibition to you of Exhibit C?

A. I do not.

X 32. Is it your belief that you did or did not?

A. I believe I saw this hub prior to the patent of Nov. 6, 1860.

X 33. Where is the letter to which you refer as a means for assisting your recollection as to the time when Kirkham exhibited his invention to you in the form of a drawing?

A. I presume it's in the Patent Office as an exhibit.

X 34. Have you a copy of it?

36 A. I have not one with me. I presume I have one at the store.

X 35. Give the contents of the letter as exactly as you are able.

A. It is but a short letter, if my recollection serves me right, in reference to business, in which the president of the company stated to me that Mr. Kirkham was coming on.

X 36. Was any reference made in that letter to the subject of the invention shown in Exhibit C?

A. I don't think there was.

X 37. Did Kirkham ever visit Philadelphia before or afterwards?

A. I think he did once or twice in the year 1861.

X 38. Fix the time when he so visited Philadelphia in 1861, as near as you are able.

A. I don't remember, sir.

X 39. When did Kirkham die?

A. I think it was in 1862—in the beginning of the year—as near as I can remember.

X 40. Have you ever been examined as a witness before in any matter where the question of priority of invention between the said Kirkham and one Barthol Erbe was in dispute; and if so, when and in what matter?

A. I was in 1865, I believe. It was in the matter of an application by Erbe for a patent, and an interference was declared.

X 41. Was this the earliest occasion that any controversy arose between those two parties upon the subject?

A. I think this was the first.

X 42. Between 1860, when, as you say, the invention of Kirkham was made known to you, down to the time when you were examined as a witness in the interference mentioned, had your mind been espe-

37 cially directed to the date of Kirkham's invention? And if so, state upon what particular occasion or in what matter.

A. I don't understand the question.

X 43. I mean that between September, 1860, and the date of giving your testimony in 1865, as you have stated, no occasion arose for refreshing your mind particularly upon the precise date of Kirkham's invention?

A. I have frequently talked with J. H. Jones, of Pittsburgh, upon the subject. Erbe having been in his employ, the question arose between us as to whether Erbe was the first inventor of his lock, or Kirkham of his. It was from these frequent conversations that I had with Jones, and the letter that I had from the president of the company in reference to Kirkham coming on to see me, that I said that I had seen a drawing of Kirkham's of the divided hub-lock. While I have no date when this lock, Exhibit C, was sent me, my impression and recollection were that it was about ten days or two weeks after seeing the drawing.

X 44. Were you not examined at great length in the interference referred to?

A. Yes, sir.

X 45. Did you, in the whole course of your testimony in that matter, make any reference to the fact stated in your direct examination in this matter, that Exhibit C, or any representation whatsoever of the Kirkham invention embodied in metal or in the form of a model, was put into your hands within ten days after the 1st of September, 1860?

A. I don't think that question was asked me, if I remember.

X 46. You stated that he exhibited a drawing to you in September, 1860, did you not?

A. I believe I did.

38 X 47. And you also stated, did you not, that you showed a lock exhibiting the alleged invention to J. H. Jones, of Jones, Wallingsford & Co., in the summer of 1861?

A. I think I did.

X 48. Were specific questions asked you on different subjects, or were there general questions put to you calling out all you knew upon the matter?

A. I think there were specific and general questions asked of me.

X 49. Were you not asked as to your belief when Kirkham made his invention, and did you, in your answer to that question, make any reference to the fact that a lock was left with you by Kirkham before the 15th of September, 1860?

A. I don't remember whether I was asked as to my belief when he made his invention, and I don't think I said—if I did, it was not so—that he left a lock; he sent the lock to me.

X 50. Did you, in any part of your testimony in that matter, make reference to the fact that a lock embodying the invention now in controversy was sent to you within ten days or so after your interview with Kirkham about the 1st of September, 1860?

A. I don't think I did. I don't think the question was asked me.

X 51. Were you not fully cross-examined as to all you had stated concerning your knowledge of the date of Kirkham's invention, and did you, in answer to any questions so put in cross examination, intimate that a lock had been sent to you embodying the invention in dispute, before the 15th of September, 1860?

A. I don't remember whether such questions were put to me, or whether I was fully cross-examined or not. That's not for me to judge.

39 X 52. Will you swear that Kirkham did not visit Philadelphia on the two occasions previously referred to, or upon one of them during the early spring or early summer of 1861?

A. I cannot swear that he was not there; but, now I think of it, he had consumption very badly, and I have my doubts if he was there in that year at all.

X 53. Do you mean to swear that he was not in Philadelphia after September, 1860, and had an interview with you?

A. I did not swear anything of the kind.

X 54. Do you recollect anything about it so as to be able to state whether he was there or not after September, 1860?

A. I repeat my answer to the 53d X-question.

X 55. Do you recollect of his being in Philadelphia from the 1st of September, 1860, to the 31st of December, 1860?

A. I do.

X 56. Give the date.

A. It was some time in the beginning of September, 1860.

X 57. The same occasion that you have before referred to?

X 58. Do you recollect any other occasion during that year after September?

A. No, sir.

X 59. Was there any letter of advice which accompanied the lock that was sent to you, (Exhibit C?)

A. I do not remember that there was, but I presume there was.

X 60. Have you searched for any such letter?

A. No, I have not, and the reason that I have not has been that the correspondence between W. S. Kirkham and myself was mainly a private one. Sometimes one of his letters got among my business-letters, and others I would stick in my pocket and lose them.

40 X 61. Is there any correspondence between Kirkham and you which you can produce which will serve to fix the time when Exhibit C was sent to you?

A. I don't know that I have any correspondence with Kirkham. Our correspondence was mainly upon going into the lock-business in Philadelphia, and after he died I made no account of them other than as I have stated above.

X 62. How many locks like Exhibit C were ever made to your knowledge?

A. I don't think there has ever been a half-dozen made by Kirkham under that patent of June, 1861.

X 63. Of how many have you any actual knowledge, aside from your belief?

A. Three or four.

X 64. Was Kirkham a practical mechanic?

A. I presume so, as he was superintendent of Squier & Parson's lock-works.

X 65. Do you know whether he made Exhibit C with his own hand, or hired somebody to do it for him?

A. I do not.

X 66. What interest, direct or indirect, have you in the Kirkham patent, now standing in the name of Coffin, or in the result of this suit?

A. Not one cent's worth, sir. He paid me cash for the patent a number of years ago.

X 67. What price did you pay Kirkham for the patent?

A. I decline to answer that question.

X 68. Did you pay him over a hundred dollars?

A. I decline to answer that question.

X 69. At what price did you sell it to Coffin?

A. I decline to answer that question.

X 70. Did you receive the consideration named in the instrument of transfer?

41 A. I don't remember what the consideration was named in the instrument.

X 71. Did you receive anything more than a mere nominal consideration?

A. I did.

X 72. Did you receive $500?

A. I decline to answer that question—to say what I gave for the patents or what I received for them.

And being re-examined by Mr. Gifford, he deposes and says:

R. D. 73. On this examination you have stated that Kirkham showed you a drawing of a lock with a hub or follower like that in Ex-

hibit C, and afterwards sent you the lock. Do you recollect of testifying about that drawing on your examination in the interference case?

A. I do.

R. D. 74. On that examination do you recollect of stating as follows: "In September, 1860, he was at my store, and then showed me a drawing of a lock whereby the latch could be reversed or turned, the latch-head being the same shape and style of ordinary latches. The lock patented by him June 11, 1861, involved the same principle as that shown to me by a drawing in September, 1860"?

A. I do.

R. D. 75. You have stated that, in 1860, you were desirous of having Kirkham get up a lock which would do for right-hand and for left-hand doors. Was the lock which he sent you, as you have stated, in September, 1860, one that would answer for that purpose—that is, for a right-hand door or a left-hand door?

42 A. Shortly after the patent of March, 1859, (Exhibit Bill-latch,) up to the time of his invention, or the time that he showed me the drawing of lock like Exhibit C, he and I had had many conversations, when I was at the factory, in reference to making a right and left hand lock, with an ordinary bevel-latch. The result of our conversations, and his ingenuity, was the divided hub-lock as shown in Exhibit C, with a double hub so that the arms might be relieved for the purpose of turning or reversing the latch. He showed me, in 1860, about the beginning of the month of September, a drawing of a lock with the arm of the latch-head joined to the horse-shoe, with a divided hub like in Exhibit C. He subsequently sent me for examination Exhibit C lock. I was under the impression and belief that it was the same lock as Exhibit C, but I find that I was wrong by the cap of the case having in letters upon it "Patented Nov. 6, 1860," which must have made it—the sending of the lock to me—after the date of November 6, 1860.

R. D. 76. Can you state, then, when he did send the lock to you?

A. I cannot. He sent me a lock with this divided hub in it, and I was under the impression that it was ten days or two weeks after he showed me the drawing.

R. D. 77. Then, do I understand that you cannot swear that he sent you or showed you any lock or model of a lock containing a divided hub prior to Nov. 6, 1860? Is that so? State what you can swear to on that subject.

A. To the best of my recollection, it was ten days or two weeks after showing me the drawing that he sent me a lock that was, as far as I could tell, like the drawing. It had a divided hub like Exhibit C, which allowed the arms of the hub to be relieved so as to reverse or turn the latch.

R. D. 78. Are you sure that the first lock which he sent you after showing you the drawing had the divided hub in it?

43 A. Yes, sir.

R. D. 79. On examining the drawing which you say Kirkham showed you in the first part of September, 1860, and which you say represented a divided hub like that in Exhibit C, were you and he satisfied with it for right and left hand doors? And if you were, state why.

(Objected to.)

A. We were satisfied with the principles of the locks, and when made well they would meet a large sale, because the principle of reversing was, in our opinion, better, could be made cheaper than any other right and left hand lock that we knew of, it being the first reversible-latch

that we ever saw or heard of, that was of the ordinary kind, that could be reversed without disconnecting it with the lock or removing the face-plate or cap. The locks which had been made under the Sherwood & Adams patents were manufactured in Pittsburgh, and there were none other right and left hand locks sold but under those patents; those were Janus-faced locks.

R. D. 80. Do you still retain that opinion?

(Objected to by Mr. Law.)

A. I do so.

R. D. 81. When you say there have been but few made like Exhibit C, do you mean there have been but few made having the divided hub?

A. No, sir.

R. D. 82. What, then, do you mean in that respect?

A. There are two patents in lock Exhibit C, one for a lever-spring, which has nothing to do with the reversibility of the lock, and one for a divided hub with movable arms. The first of these was sold to Mr. Kennedy, of the Branford Lock-Works, and the second to Paul Chase Coffin.

44 And being further cross-examined by Mr. Thurston, he deposes and says:

R. X 83. Who, in the winter of 1860 and in the spring of 1861, was the pattern-maker in the employ of Squer & Parsons?

A. My impressions are that A. M. Hill was pattern-maker at that time.

R. X 84. Do you know when Kirkham made application for his patent?

A. I do not.

R. X 85. Do you know who made Kirkham's model for the Patent Office?

A. No; I do not.

R. X 86. When your examination commenced to-day you were confident that you saw a lock within ten days or so of the 1st of September, 1860, were you not?

A. I was, sir; and I thought it was lock Exhibit C, but I am satisfied it was not.

R. X 87. You have became satisfied by the date on the cap, haven't you?

A. Yes, sir.

R. X 88. When you commenced your examination were you not just as certain that Exhibit C was the lock that you saw as that the drawing was shown you on the 1st of September?

A. I still am certain that the drawing was shown to me by Mr. Kirkham about the 1st of September, with a divided hub, such as is in this lock, Exhibit C, and I have heretofore stated that this Exhibit-C lock was sent to me, as near as I could recollect, about ten days or two weeks after seeing the drawing.

R. X 89. Was the drawing shown you a finished drawing in ink, or how otherwise?

A. No, sir; I think it was in pencil.

R. X 90. Was it what would be called a sketch rather than a complete drawing?

45 A. No, sir; it was a complete drawing. I have seen better drawings, but it was one that I thoroughly understood after explanation.

R. X 91. You fix the time as the 1st of September, 1860, by refer-

ence to the letter which stated that Kirkham was coming to Philadelphia, do you?

A. Yes, sir.

R. X 92. Is there any other means or circumstance to which you can refer to fix the date?

A. I cannot.

R. X 93. Did Kirkham stay at a hotel when he was in Philadelphia?

A. I don't remember, and don't think he did. I think he came in the morning and went in the afternoon.

R. X 94. Where was he going?

A. He came on specially to see me.

R. X 95. How long were you and he negotiating about starting the lock business in Philadelphia? When did such negotiations commence, and when did they end?

A. It was after he invented the bill-latch lock in 1859, and continued to within a few months before he died.

R. X 96. Did Kirkham come on to Philadelphia specially to bring you this drawing?

A. I think he did. I don't remember of his having any other business.

R. X 97. Did the letter announcing his coming make any reference to his drawing?

A. I don't think it did. The president of the company, who wrote it, had no cognizance of the talks between Mr. Kirkham and myself about business or patent locks, to the best of my knowledge.

R. X 98. Was there any talk on this occasion about the advisa-
46 bility of Kirkham's making any application for a patent, and was an application for a patent contemplated?

A. I don't remember if, at that time, there was any talk about a patent particularly. I think he said that he would take it home and make a lock like it.

R. X 99. Did you not both consider that it was an invention which ought to be patented promptly?

A. Certainly we did.

R. X 100. Was it not the understanding that he should put himself in condition to make an application for a patent as soon as reasonably practicable?

A. I had not any understanding. I presume he would do so.

R. X 101. Was the lock shown you before the 15th of September, 1860, as well finished a lock as Exhibit C, to your best recollection?

A. I think it was.

R. X 102. Will you swear that the lock shown you had the small spiral-spring back of the hub?

A. To the best of my recollection it had.

CHARLES A. MILLER.

Subscribed and sworn to before me, this 16th April, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

47 Deposition of Barthol Erbe, produced, sworn, and examined by me, the twenty-seventh day of July, A. D. 1869, at my office in the city of Pittsburgh, in the State of Pennsylvania, by virtue of the annexed agreement of counsel of the parties in interest, in a certain cause now pending in the United States circuit court for the southern district of New York, in equity, wherein P. C. Coffin is complainant

and James B. Ogden and Lucius Woodruff are respondents, on the part and behalf of the said complainant, to be read in evidence on the hearing of said cause, on his said part and behalf.

BORTHOL ERBE, being first duly sworn, in answer to the interrogatories and cross-interrogatory answered, deposeth as follows:

Interrogatory 1. What is your name, age, residence, and occupation?

Answer. My name is Barthol Erbe. My age is forty-five years. My residence is East Birmingham, Alleghany County, State of Pennsylvania, and my occupation is assistant manager of the shops of the Jones & Nimick Manufacturing Company, of Pittsburgh, Pennsylvania.

Int. 2. Do you know M. J. Woodruff?

Ans. Yes, sir.

Int. 3. Do you recollect handing him a lock at Pittsburgh, in or about July, 1868?

Ans. I recollect handing him a lock; it was afterwards marked "H. E." I believe, as near as I can mind, it was at that time.

Int. 4. If you did so deliver a lock to said Woodruff, where did you get that lock? Did you make it; if yea, when?

Ans. I made it in Pittsburgh, on the same day that I gave it to Mr. Woodruff.

48 Int. 5. Where did you first make a lock like that one?

Ans. In the latter part of the year 1860.

Int. 9. Did you make more than one such lock prior to the time you handed that one to said Woodruff?

Ans. I made three before. The first one I made I gave to Messrs. Jones, Wallingford & Co. The second I sent to Washington, when I applied for a patent. The third one I made for a friend of Mr. Jones, after the time I applied for a patent.

Int. 7. Did you apply such a lock to a door, or put such a lock into use?

Ans. I did not put to any use just such a lock as I made in 1860, but I put in use other locks after I had applied for a patent, and after I had ordered and improved it.

Int. 8. Did you ever know of such a lock being applied to a door or put into use?

Ans. I did not, before I applied for a patent. I believe the one was put in a door that I gave Jones, Wallingford & Co., but I do not know it.

Int. 9. What became of the first lock which you made of that kind?

Ans. I gave it to Jones, Wallingford & Co.

In answer to the cross-interrogatory, he says:

Cross-int. Please read the papers now shown you and hereto annexed, purporting to be the affidavit of Barthol Erbe, and marked Exhibit "A," and with the name of the commissioner, and state whether the signature to the same is or is not your genuine signature; whether you subscribed to the truth of the statements therein made, on the 3d day of September, 1868, and at whose request and under what circumstances you made such affidavits.

49 Ans. That is my signature. I subscribed to it at the request of Mr. Woodruff. Mr. Woodruff came to my house and had the affidavit written already. When he read it to me I objected that I did not put the lock on a door, and that I never saw it on one. We went to Squire Stevenson's and he read it again. I told him I could not swear the lock was put on a door. He made an alteration, and told me I would not swear the lock was put on the door, but that I believed it

was put on a door. I do not understand the English language very well. I did not know that I swore that the lock was put on a door, for I never put it on one, or saw it on one before I applied for a patent; but I thought I swore that I believed that the lock I gave to Jones, Wallingford & Company was put on a door by them, although I never saw it on one.

BARTHOL ERBE.

UNITED STATES OF AMERICA,
Western District of Pennsylvania:

I, John H. Bailey, a commissioner appointed by the circuit court of the United States in and for the western district of Pennsylvania, in the third circuit, under and by virtue of the acts of Congress, do hereby certify that the reasons for taking the foregoing deposition, and the fact is, that the said Barthel Erbe is a material witness in the cause in the caption named, and the taking thereof was by virtue of the annexed agreement of counsel of the respective parties to said cause.

I further certify that, on the twenty-seventh day of July, A. D. 1869, I was attended by no one but by the witness, who is of sound mind and lawful age, and the witness having been by me carefully examined and cautioned, and duly sworn to testify, the deposition was reduced to writing by me, in the presence of the witness, who subscribed the same in my presence, and I have retained the said deposition in my possession until the same was sealed up and directed, at the agreement of counsel, for the purpose of transmitting the same by mail under my seal to the court for which the same was taken, together with this certificate of the reasons of its being taken, and of the agreement of the adverse parties.

I further certify that I am not of counsel or attorney for either of the parties in the said depositions and caption named, or in any way interested in the event of said cause.

In testimony whereof I have subscribed my name and affixed my seal, at Pittsburgh, in the western district of Pennsylvania, this twenty-seventh day of July, A. D. 1869.

[L. S.] JOHN H. BAILEY,
U. S. Circuit Court Commissioner
In and for the said District.

[U. S. int. rev. canceled. Agreement.]

Fees, stamps, &c., $5.00

United States circuit court, southern district of New York.

P. C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

For the purposes of this suit, and to avoid the necessity of formal proof, it is admitted on the part of the defendants that they sold locks like Exhibit D, in the city of New York, prior to the commencement of this suit, and after June 11th, 1861.

S. D. LAW,
Defendants' Solicitor.

52 *Defendants' "Exhibit A."*

Circuit court of the United States, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

STATE OF PENNSYLVANIA,
County of Allegheny, ss:

BARTHOL ERBE, of East Birmingham, in said county, being duly sworn, deposes and says: That he is a mechanic, and is now engaged in the manufacture of locks, and is in the employ of the Jones and Nimick Manufacturing Company of Pittsburgh, State of Pennsylvania; that he has been engaged in the manufacture of locks the greater part of the time for the past nineteen years, and is acquainted with and understands the construction of the principal door-locks in use, and particularly such locks as are known as reversible locks, or locks which can be converted into right or left hand locks by reversing the latch bolt.

Deponent further says that, during the year eighteen hundred and sixty, (1860,) he was in the employ of the Variety Works, of Pitts-
53 burgh, (now the Jones and Nimick Manufacturing Company,) manufacturing locks; that, in the latter part of that year, deponent invented and made a reversible lock, which was the same in construction with a certain lock now shown to deponent, and which is marked by scratching or marking thereon the letters H. E. Deponent further says that the said lock, so marked, was put together by deponent, and that he fully understands the construction and arrangement of all the parts thereof, and that the said lock is, in all its parts, and in their arrangement by which the latch-bolt is capable of being reversed, and the lock thus changed from a right to a left-hand lock, and back again, the same as the said lock made by deponent in eighteen hundred and sixty, (1860;) that deponent, after the time he invented and made said lock, made several duplicates of the same, and allowed one of said duplicate locks to be put on a door in the office of the said Variety Works, to see how the same would practically work, and to test it; that said lock worked well and satisfactorily, as deponent verily believes, and remained on such door a considerable time, and that he does not know when it was removed; that, a considerable time after the date of the invention of said lock, he applied for a patent therefor, and that a model of the invention or lock is now in the Patent Office, in Washington, D. C.

Deponent further says that, at or about the time he made such lock, he showed the same to Andrew Paterson and Bernhard Brosy, of Birmingham, Alleghany County Pennsylvania, and to Henry Masta, of Snowden, Alleghany County, State of Pennsylvania.

BARTHOL ERBE.

54 Sworn to and subscribed before me. In witness whereof I have hereunto set my hand and official seal, this 3d day of September, A. D. 1868, at Birmingham, Alleghany Co., Pa.

A. B. STEVENSON,
Notary Public.

The words "as deponent verily believes," *was* inserted in second line of third page previous to signing.

A. B. STEVENSON,
Notary Public.

55 *Complainant's "Exhibit A."—Re-issue No.* 1390.

The United States of America to all to whom these letters-patent shall come:

Whereas Charles A. Miller, of Philadelphia, Pennsylvania, (assignee of W. S. Kirkham, of Branford, Conn.,) has alleged that said W. S. Kirkham invented a new and useful improvement in locks and latches, (for which letters-patent were issued to him, dated June 11, 1861, which letters having been surrendered by said assignee, the same have been cancelled and new letters ordered to issue to him on an *an* amended specification,) which he stated had not been known or used before his application, had made oath that he was a citizen of the United States; that he did verily believe that he was the original and first inventor and discoverer of the said improvement; and that the same had not, to the best of his knowledge and belief, been previously known or used; said assignee having paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are therefore to grant, according to law, to the said Charles A. Miller, his heirs, administrators, or assigns, for the term of seventeen years from the eleventh day of June, one thousand eight hundred and sixty-one, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Charles A. Miller, in the schedule hereunto annexed, and is made part of these presents.

56 In testimony whereof I have caused these letters to be made patent and the seal of the Patent-Office has been hereunto affixed.

Given under my hand at the city of Washington, this twenty-seventh day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States of America the eighty-seventh.

J. P. USHER,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent-Office.

D. P. HOLLOWAY,
Commissioner of Patents.

57 *The schedule referred to in these letters-patent and making part of the same.*

To all whom it may concern:

Be it known that I, Charles A. Miller, of the city of Philadelphia, and State of Pennsylvania, have, by deed of assignment duly recorded in the U. S. Patent-Office, become the owner of certain letters-patent for improvements in "locks and knob catches," granted to the late W. S. Kirkham, on the 11th day of June, A. D. 1861, which letters-patent I deem invalid and insufficient by reason of a defective specification, and I do hereby declare the following to be a full, clear, and exact description of the said invention, reference being had to the accompanying drawing, and to the letters of reference marked thereon.

This invention relates to *a* certain improvements in door-locks, and the improvements consist—

Firstly. In so dividing the hub or follower, and so combining the same with a reversible latch, that the arms, or their equivalents of the divided hub or follower, may be released for the purpose of allowing the latch to be reversed or turned.

Secondly. So constructing and arranging the individual parts of a divided hub or follower, that the reversal or turning of the latch is prevented only by the presence of the spindle within the lock.

The object of the invention is to render the lock readily applicable to either right or left hand doors.

In order to enable others skilled in the art to make and use the said invention, I will now proceed to describe its peculiar construction and operation. On reference to the accompanying drawing which forms a part of this specification:

58 Fig. 1 is a face-view of the lock with the front plate removed in order to exhibit the interior.

Fig. 2 is a sectional-plan view on the line *yy*; Fig. 1 and Fig. 3 a detached perspective view of the hub or follower, through which the square knob-spindle passes. Similar letters refer to similar parts throughout the several views.

A represents the case of the lock, which, in the present instance, is of the class known as mortise-locks, that is, locks let into the edge of the door, and consequently concealed from view. It should be understood, however, that the invention which I am about to describe can be applied to such locks as are secured to the outer surface of doors; in fact, the invention is applicable to door-locks generally.

B is the bolt to be operated by the key of the lock. As this bolt forms no part of the invention, and as it is similar in construction and operation to the bolts of other locks, a minute description will be unnecessary. The latch C, which is operated by the turning of the knob-spindle, is of peculiar construction; the portion *a*, which I term the head, and which projects beyond the face-plate *i* of the lock, is square and beveled or rounded off at one end, as best observed on reference to Figure 2. The stem *b* of the latch is cylindrical, as is also the portion *x* adjacent to the head *a*. The square portion of the latch, as long as the lock remains in working order, is arranged to fit snugly, but to slide freely in a square opening in the said face-plate *i*, and the latch cannot be turned or its beveled end *a* reversed, until it is pulled so far forward that the cylindrical portion *x* takes its place in the said square opening of the face-plate *i*, when the latch can be readily turned

59 and its bevelled edge reversed. This reversal, however, is only permitted under the circumstances fully described hereafter.

At or near the centre of the cylindrical portion *b* of the latch is a recess, *c*, in which fits the lower end of the lever D, the latter having its fulcrum on a lug, *d'*, which projects from the inside of the upper edge of the case, a spring, D', bearing against the short arm of the lever.

A slide, E, is connected by a pin, *e*, to the lever D, and on this slide are two projections or lugs, *d d*, against which the arms of the hub or follower bear.

This hub or follower is of peculiar construction: It consists of two parts, *f* and *g*, as best observed in the perspective view, Figure 3. The part *g* is arranged to turn in both faces of the lock, as seen in Figure 2, and has a square opening for the reception of the knob-spindle G.

The part *g*, however, is partly cut away for the reception of the part *f*, a portion of which is also adapted to the knob-spindle.

It is this portion, *f*, of the hub which acts on the projections *d d* of the slide; the points which bear against the projections, I term the arms of the hub.

In the absence of the spindle from the hub the portion *f* can be slided in the direction of the arrow independently of the portion *g*, which remains stationary, inasmuch as it is confined to both the front and the rear plate of the lock-case.

When the spindle is inserted into the hub, however, the two portions of the same become as one, and perform the same functions as an
60 ordinary hub, that is, one or other of the arms acts on one of the projections *d* on turning the spindle, and causes the slide to operate the latch. On withdrawing the spindle, however, the portion *f* of the hub is released from the portion *g*, and consequently the arms of the portion *f* are released as far as their action on the projections *d d* is concerned.

When it is desirable to reverse the latch, therefore, the first thing to be done is to withdraw the knob-spindle, after which the latch can be pulled out from the face-plate *i* to a distance which the presence of the spindle in the hub had hitherto prevented.

On thus pulling the latch out, the lever and slide must move in the same direction, and this movement is permitted by the yielding of the arms of the hub, which have been released on withdrawing the spindle.

After the latch has been drawn out so far that the cylindrical portion *x* take the place previously occupied by the head *a* in the square opening of the face-plate *i*, the latch can be readily turned and reversed, pushed back to its proper position, and the spindle re-inserted.

It will be observed that a spring, H, is secured to the portion *g* of the hub, and that it bears against the portion *d*. The only object of this spring is to restore the said portion *f* to its proper position in relation to the portion *g*, after the former has been released for the purpose described above.

It will now be seen, without further description, that, by the peculiar construction of the hub, the arms of the same may be released, the reversal of the latch promptly accomplished, that the presence of
61 the spindle in the hub effectually prevents any reversal of the latch, and consequently that the lock can be readily rendered applicable to a right or left hand door.

It will be evident with those familiar with locks of this class that other devices may be substituted for the lever D and slide E, as a connection between the hub and latch, and that the hub itself may consist of parts constructed and arranged in a manner differing from that described. I therefore claim as the invention of the aforesaid W. S. Kirkham:

Firstly. So dividing the hub or follower, and so combining the same with a reversible latch, that the arms or their equivalents of the divided hub or follower may be released for the purpose of allowing the latch to be reversed or turned.

Secondly. So constructing and arranging the individual parts of a divided hub or follower, that the reversal or turning of the latch is prevented only by the presence of the spindle within the lock.

In testimony whereof I have signed my name to this specification before two subscribing witnesses.

CHARLES A. MILLER.

Witnesses:
J. P. ANCKER,
WILLIAM DELANEY.

62

63 United States circuit court, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

Testimony taken on the part of the defendants in the above action by Joseph Gutman, jr., examiner, etc., under the 67th rule in equity, and pursuant to notice.

MONDAY, *January* 18, 1869.

Present, B. F. Thurston, esq., and S. D. Law, esq., of counsel for defendants, and George Gifford, esq., of counsel for complainant.

BERNHARD BROSI, a witness of lawful age, produced on the part of defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Thurston, of counsel for defendants, he deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Bernhard Brosi. I am 37 years of age. I reside at Birmington, Alleghany County, Pennsylvania, and am a lock-maker.

Q. 2. Where did you reside, and what was your occupation, in the year 1860?

64 A. At Birmingham, lock-making.

Q. 3. By whom were you employed?

A. By Jones & Nimick Manufacturing Company, of Pittsburg.

Q. 4. What is the distance between Birmingham and Pittsburg?

A. About one mile.

Q. 5. Are you acquainted with Barthol Erbe; if so, where does he reside, and how long have you known him?

A. I am. He resides at Birmingham. I have known him about 17 years.

Q. 6. Where did he reside, and by whom was he employed, in the year 1860?

A. Birmingham; employed by Jones, Wallingford & Co.

Q. 7. What was the said Erbe's occupation in the year 1860?

A. He was the foreman of the lock-shop of Jones, Wallingford & Co.

Q. 8. State whether the Jones and Nimick Manufacturing Company carry on the business of lock-making at the same establishment, formerly occupied by Jones, Wallingford & Co., and whether the former company succeeded to the business of Jones, Wallingford & Co.

A. No, they do not occupy the same place. They moved their shop from Water street to Diamond alley. I don't know how they fixed it. After that they formed a stock company, and put the name up Jones & Nimick Manufacturing Company.

Q. 9. State whether the said Barthol Erbe has, at any time heretofore, exhibited to you any alleged improvement in reversible locks and latches; if yea, state the occasion when any such exhibition was made to you, and describe as particularly as you can the thing exhibited to you and its structure.

A. He has, in 1860. I went to his house. I had some business to do there, which I had to settle at Christmas time. He showed me the lock, how it worked, so that a person could use it right or left. He showed me the follower made in two pieces—one piece you take out when

65 you take the knob away; the other part, the main part of the fol-

lower, slides forward in the case of the lock with the latch, so you can take the square part of the latch and turn it around left or right, whichever way a person wants to.

Q. 10. Did you examine this lock carefully at the time?

A. I did.

Q. 11. How many years had you been a lock-maker at this time?

A. Eight years.

Q. 12. Had you ever seen a reversible latch before?

A. No, sir.

Q. 13. Were you interested in examining the thing he showed you?

A. It was interesting to me.

Q. 14. Are you certain that this occurred on Christmas day, 1860?

A. I can't say whether it was Christmas day, or the day before or the day after.

Q. 15. Are you sure it was before the beginning of the year 1861?

A. Yes, sir.

Q. 16. Are you sure that it was before the 1st of January, 1861?

A. I am.

Q. 17. Please look at the model of a lock, marked Defendant's Exhibit, now shown to you, and state how the same corresponds with the structure exhibited to you by said Erbe, at the time you mentioned?

A. It is the same thing; the follower has the same fixing.

Q. 18. Examine the lock particularly, and, if in any respect it differs from the structure shown to you by Erbe at the time you mentioned, point out such differences.

(Objected to.)

A. It is the same construction—all the difference is, the inside part of the latch shown to me by Erbe was made of wrought iron in a rough kind of way.

66 Q. 19. Was the lock shown to you by the said Erbe on the occasion mentioned by you a complete lock, capable of working?

A. It was.

Q. 20. At or about this time, to wit, the latter part of December, 1860, or January, '61, did you see the same lock again which Erbe showed you?

A. Yes.

Q. 21. How many times and where?

A. He showed it to me a couple of times at Jones, Wallingford & Co.'s.

Q. 22. Did you at any time see such lock affixed to a door; if so, when?

A. I did, at Jones, Wallingford & Co.

And on being cross-examined by Mr. Gifford, the witness deposes and says as follows:

X-q. 23. Have you before been examined as a witness in any controversy about this lock?

A. Yes, sir.

X-q. 24. When and where?

A. In 1866, I believe, at Pittsburg, Penn.

X-q. 25. In what case or controversy were you then examined?

A. In a case about the latch, so that you can use the lock right or left.

X-q. 26. Is that the best answer you can give to the last question?

A. Yes.

X-q. 27. Before what officer, if any, were you then examined?

A. I believe it was Alderman Nicholson.

X-q. 28. Are you sure that the testimony you then gave agrees with what you have given to-day?

(Objected to.)

A. I am.

X-q. 29. Was your testimony then taken down in writing?

A. Yes, sir.

67 X-q. 30. When did you last read it or hear it read?

A. I did not hear it at all.

X-q. 31. Have you ever seen the lock, Exhibit A, before it was handed you to-day or shown you to-day after the commencement of this examintion?

A. I saw it at that time at Pittsburg on my previous examination.

X-q. 32. Had you seen it at any time between that time at Pittsburg and when it was shown you to-day, after the commencement of this examination?

A. I have not, until I saw it when I came to New York.

X-q. 33. When and where did you first see it when you came to New York?

A. Here in this office on Saturday last.

X-q. 34. Who showed it to you then?

A. Mr. Law—S. D. Law.

X-q. 35. Where did Mr. Law get the lock, Exhibit A?

A. I do not know.

X-q. 36. Do you know who has had the lock in his possession since you saw it in Pittsburg on your previous examination?

A. No, sir.

X-q. 37. Do you say that you have never seen Mr. Woodruff have that lock?

A. I saw that lock once at the squire's office at Pittsburg. I don't recollect whether Woodruff or Erbe had it.

X-q. 38. When was that when you *you* so saw it at the squire's office in Pittsburg?

A. I believe it was about four or five months ago.

X-q. 39. Who were then present at the squire's office? Name them all.

A. Mr. A. B. Stevenson, Mr. Woodruff, Barthol Erbe, and, I believe, Mr. Andrew Patterson. Those were all.

X-q. 40. What was the name of the squire at whose office you saw these gentlemen and the lock?

A. Mr. Stevenson—A. B. Stevenson.

X-q. 41. How long were you at the squire's office on that occasion?

A. About three-quarters of an hour, or an hour or so, I cannot tell exactly.

68 X-q. 42. What did you all do there?

A. We had a hearing about it.

X-q. 43. Who had the lock then?

A. I can't remember who had it.

X-q. 44. Are you sure anybody had it there?

A. Yes.

X-q. 45. What makes you sure of that?

A. I saw it there.

X-q. 46. Where was it when you saw it there?

A. I believe it was lying on the desk.

Xq. 47. You did not see anybody take it up then?

A. Yes, I did.

X-q. 48. Who?

A. Mr. Stevenson.

X-q. 49. Was he all?

A. It was handed around then; he asked me if that was the same lock I saw before, and I told him yes.

X-q. 50. Handed around to whom? Mention them all.

A. To me, and I believe Mr. Patterson took it in his hand too; I can't remember.

X-q. 51. You cannot remember then that Mr. Woodruff took it in his hands?

A. No.

X-q. 52. What did you go to the house of Mr. Erbe for about Christmas, 1860?

A. Because I had business to do there.

X-q. 53. Do you prefer to not tell what that business was?

A. Yes, it was private business of my own.

X-q. 54. How long were you at Erbe's house at that time?

A. I believe it was a couple of hours.

X-q. 55. How long had you been at Erbe's house at that time before they showed you the lock?

A. About half an hour or so.

X-q. 56. Who else was present on that occasion?

A. Erbe's wife was all.

X-q. 57. What did you see in the lock Erbe showed you, if anything, which you had never known before?

69 A. I saw the hub made out of two parts, so arranged that when you take the knob out of the hub, the main part of the hub slides forward, which leaves the latch forward, so that you can turn the square part of the latch right or left, whichever way a person wants to.

X-q. 58. At the time you so went to Erbe's house were you engaged in work in the same factory in which Erbe was superintendent?

A. Erbe was only foreman of the lock-shop at that time in which I worked.

X-q. 59. How often were you in the habit of seeing him in the shop?

A. Very nearly all the time; he was in the same room.

X-q. 60. Do you know where Erbe made the lock which you say he showed you about Christmas, 1860?

A. I cannot tell because the shop had stopped at that time and we were not at work.

X-q. 61. How long had it been stopped?

A. Immediately after the presidential election, November, 1860?

X-q. 62. What did Mr. Erbe say, if anything, when he showed you the lock about Christmas, 1860?

A. He did not say much; he showed it to me and thought it was a great thing.

X-q. 63. Did you see him show it to anybody else at or about that time?

A. No.

X-q. 64. How soon after that did you see Mr. Erbe show it to any one else, and to whom?

A. I don't know that.

X-q. 65. Do you know to whom Mr. Erbe showed that lock after Christmas, 1860?

A. No.

X-q. 66. Between the presidential election and Christmas, 1860, were there any hands at work in the shop in which Mr. Erbe was foreman?

A. We were working a week or two right after the election, and then the shop shut down.

X-q. 67. What workmen were engaged in that shop at that time? Give their names.

70 A. There were a great many, I can't recollect all: Henry Masta

were was one, Charles Ring, John Rabitsky, Lawrence Masta; there a great many others; I cannot give their names.

X-q. 68. At what time was work resumed in that shop after Christmas, 1860?

A. I do not know, we stopped for a long time.

X-q. 69. If you resumed work there, state about how long it was.

A. I cannot tell. It was anyhow over half a year.

X-q. 70. Have you worked for Jones, Wallingford & Co., and their successors ever since that time?

A. Yes.

X-q. 71. Have you ever known locks like Exhibit A to be manufactured and sold by Jones, Wallingford & Co., or their successors?

A. Not with a double hub.

X-q. 72. Have you known any to be made and sold by those firms with a swivel bolt or latch?

A. Yes, sir.

X-q. 73. When first?

A. A couple of years ago.

X-q. 74. How do those operate to enable the latch to swivel or turn?

A. The follower or hub was all one piece; you pull out the latch, turn it around, and put it back again.

X-q. 75. Then in those locks so made and sold by the successors of Jones, Wallingford & Co., the latch could be pulled forward and turned without any other change being made in the lock, could it not?

A. Yes, sir.

X-q. 76. Who, if you know, got up that kind of lock?

(Objected to.)

A. I do not know, I was not there when they first made that lock.

X-q. 77. When did they first make it so far as you know?

A. I do not know, I was not at work at that time.

71 X-q. 78. When did you first know of their making it?

A. I believe it was at the time we had the examination at the alderman's office, about lock Exhibit A.

X-q. 79. When was that?

A. In 1866; I cannot tell any more, whether it was in spring or fall.

X-q. 80. Did not you work for that concern at the time they commenced to make that lock, the latch of which you could pull forward and reverse without any other alteration in the lock?

A. No, sir.

X-q. 81. Where, if anywhere, were you then working, and for whom?

A. For Edwards, Knawer & Co., West Point Foundry, Pittsburg.

X-q. 82. For how long did you work there?

A. About two years.

X-q. 83. At what?

A. Railroad work.

X-q. 84. What was the name of the concern which followed Jones, Wallingford & Co.?

A. As much as I know, the Jones & Nimick Manufacturing Company.

X q. 85. When did you first commence to work for Jones, Wallingford & Co.?

A. I do not know any more; I cannot remember that any more.

X-q. 86. Whom did you first work for in Pittsburg?

A. Edwards, Knawer & Co.

X-q. 87. How long did you work for them, and at what?

A. A couple of years at lock-making.

X-q. 88. When did you cease to work for them, and whom did you next work for?

A. When they sold out to Livingston, Copeland & Co., the Novelty Works. I cannot tell the exact time of this, about 1855 or so. I next worked for Warwick, Atterbury & Co., at Birmingham, Pa.

X-q. 89. How long did you work for them, and whom did you next work for?

A. I worked about a year for them; I next worked for Jones, Wallingford & Co.

72 X-q. 90. How long did you work for them, and whom did you next work for?

A. About four or five years for them and then I went to Edwards, Knawer & Co.

X-q. 91. How long did you work for them, and whom did you next work for?

A. I think about two years there, and then I went back to the Jones & Nimick Manufacturing Company, and have been there ever since.

X q. 92. Whom were you working for or had you last worked for at the time you say Erbe showed you the lock at his house?

A. Jones, Wallingford & Co.

X-q. 93. Do you know of Jones, Wallingford & Co. making what was called a Janus-faced lock, which, having two faces, could be turned either side out, so as to be a right or a left-hand lock?

A. I do.

X-q. 94. Do you remember of their stopping to make that Janus-faced lock at any time?

A. Yes.

X-q. 95. Did you understand why they so stopped? If so, please state it.

A. They had a suit with the Novelty Works about that lock, which suit they lost, and had to stop making that lock.

X-q. 96. Did Jones, Wallingford & Co. afterwards make any locks as a substitute for the Janus-faced, and which could be changed from a right-hand to a left-hand door?

A. Not right afterwards; not until they made those which they are making now.

X-q. 97. You mean, I suppose, not until they made the one, the latch of which you can pull forward and reverse without changing any other part of the lock?

A. Yes.

X-q. 98. In the lock last mentioned, what holds the latch from coming forward when it is not drawn forward for the purpose of reversing?

A. The spring attached to the latch.

73 X-q. 99. Did Jones, Wallingford & Co. commence making the lock last mentioned before or after the time when you say Erbe showed you the lock at his house?

A. After the time.

X-q. 100. Did you ever see more than one lock such as Exhibit A?

A. I saw a couple of them making. Erbe made a couple after he showed me that one.

X-q. 101. When and where did Erbe make those two?

A. At the time we commenced work again at Jones, Wallingford & Co's.

X-q. 102. What became of those two?

A. I do not know.

X-q. 103. How many times did you ever see those two or either of them, and where did you see them?

A. I saw them a great many times at the shop of Jones, Wallingford & Co.

X-q. 104. Who had them there?

A. Erbe.

X-q. 105. Did you ever see anybody else have them there, or either of them?

A. I saw John Rabitzky once looking at it.

X-q. 106. How many times did you see him looking at them?

A. I do not know; I did not watch him.

X-q. 107. Was he and Erbe the only ones whom you saw have them or looking at them?

A. Yes.

X-q. 108. At these different times when you say you saw Erbe have those two locks at the shop, what was Erbe doing with them?

A. He showed it to John Rabitzky.

X-q. 109. How many times did you see him showing them to John Rabitzky?

A. A couple of times.

X-q. 110. Were these the only times you saw Erbe have those locks or either of them at the shop?

A. Yes.

X-q. 111. Where were those locks kept at the shop, if you know?

74 A. He had one in the drawer of the bench where he was working.

X-q. 112. Where was the other kept?

A. I don't know; it was not my business.

X-q. 113. Where did you ever see the other one in the shop?

A. I saw one working on the door of the office; I cannot tell whether it was one he made afterwards or the original one.

X-q. 114. Where or when did you first see the one which you say was on the office-door?

A. At Jones, Wallingford & Co.'s, during the winter-time, when we stopped.

X-q. 115. State more definitely where and when you first saw the lock which you say was on the office-door.

A. I cannot give a better answer than I did.

X-q. 116. Did you ever see that lock before you saw it on the office-door?

A. Certainly; I saw it in Erbe's house.

X-q. 117. Do you mean to swear that the lock which you say you saw on the office-door was the same identical lock which you saw at Erbe's house?

A. Yes, sir.

X-q. 118. Have you not already sworn on this examination that you did not see that lock again after Erbe showed it to you at his house?

(Objected to.)

A. I did see the lock.

X-q. 119. Question repeated.

A. I have not.

X-q. 120. Who put the lock on the door which you say was on the door of the office?

A. That is more than I know.

X-q. 121. After you saw it on the door did you see it off the door?

A. That is more than I know.

X-q. 122. How do you know or profess to know that the
75 lock which you saw on the door of the office was the same lock which Erbe had shown you at his house?

A. We never had a lock like it before at the shop with a Janus face.

X-q. 123. Is that the best answer which you can give to the last answer?

A. I mean with that latch on.

X-q. 124. Have you now answered the question next before the last one as well as you can?

A. I have answered it.

X-q. 125. Whose office was that on the door of which you say this lock was?

A. Jones, Wallingford & Co.

X-q. 126. Who were in the habit of occupying that office? Name the persons.

A. Jones, one of the firm, Wallingford, Barr, a clerk.

X-q. 127. Did you see that lock put on the office-door?

A. No, sir.

X-q. 128. Then if you never saw it put on, and never saw it off, you never saw its internal works, did you?

A. Yes, I did. We have to go through the door.

X-q. 129. What do you think I meant in my last question by "its internal" works?

A. Opening the door and shutting it again.

X-q. 130. Can you swear and do you swear that the lock which you say was on the office-door of Jones, Wallingford & Co. had a divided or double hub on it?

A. I never looked about that. We never had another lock in the shop like this.

X-q. 131. Like which?

A. Like Exhibit A.

X-q. 132. Now have you not already sworn on this examination that Erbe made two other locks like Exhibit A after he showed you the one at his house?

A. I did.

X-q. 133. Have not you also sworn on this examination that you never had another lock in the shop like Exhibit A?

A. No.

X-q. 134. Now can you swear positively, and do you swear positively that you know that the lock which you say Erbe showed you at his house had a divided or double hub?

76 A. I have sworn already that it was a divided hub, and I do so swear.

X-q. 135. Can you swear, and do you swear positively that Erbe ever afterwards made another lock with a double or divided hub?

A. I can and do.

X-q. 136. Now state where Erbe made another lock with a divided or double hub.

A. He made a couple of them at the time we commenced to work again at Jones, Wallingford & Co.

X-q. 137. When was that? Give the date as near as you can.

A. I cannot tell. It was about half a year after he *he* showed me the one at the house.

X-q. 138. Where did Erbe make those two locks?

A. At the lock-shop of Jones, Wallingford & Co.

X-q. 139. Did you see Erbe make those two locks in that shop?

A. I saw him working at them. Yes, I saw him make them.

X-q. 140. Then you mean, do you, that you saw him make the whole of those two locks, and all their parts from beginning to end?

A. I saw them when he had them finished.

X-q. 141. Question repeated?

A. I do mean so.

X-q. 142. Did Erbe commence and finish one of those two locks before he commenced the other of them?

A. I don't know. I was not looking at it.

X-q. 143. Did he finish both at the same time or one before the other, and how long before?

A. He finished them both together.

X-q. 144. Both the same day?

A. I don't remember whether it was both the same day; I don't recollect that any more.

X-q. 145. Both the same week?

A. Yes.

X-q. 146. How can you remember that they were both finished in the same week, when you do not know whether or not they were both finished on the same day?

77 A. He showed them to me a short time after he began at them.

X-q. 147. Was it one of those two locks which was put on the office door?

(Objected to.)

A. I told you that I did not know whether it was one of these or the original one; I did not ask him.

X-q. 148. When did you last see either of those two locks?

A. I cannot remember that any more.

X-q. 149. State, as nearly as you can, when you last saw either of those two locks?

A. I cannot give any better answer than I have done.

X-q. 150. What answer do you understand that you have given in that respect; that is, when you last saw either of those two locks?

A. That I cannot remember the time.

X-q. 151. Do you remember any time when you saw either of them?

A. I remember the time when he made them after we commenced work again.

X-q. 152. Do you remember of ever seeing either of them after the time he made them? And if you do, state when, as nearly as you can.

A. I saw them for a long time when he had them lying around in his drawer.

X-q. 153. Do you mean that he had them both in his drawer?

A. I do not know whether he had them both in his drawer, but I knew he had them in—

X-q. 154. In what?

A. In the drawer, under his bench, where he was working.

X-q. 155. Do you mean that the locks were open in his drawer?

A. He had them sometimes open and sometimes shut.

X-q. 156. What did he have them open for?

A. This is a question what I do not ask him; it was not my business. He was foreman of the shop.

78 X-q. 157. Could you not at any time see what he had them open for?

A. No, sir.

X-q. 158. Why not?

A. Because he is studying at locks all the time to make improvement.

X-q. 159. Do you mean he was studying these two all the time?

A. I do not know that.

X-q. 160. Then do you mean that because he was studying locks all the time you could not see what he opened either of those two for at any time?

A. No, sir.

X-q. 161. You say there was a lock on the office door; when was that? State the time, as nearly as you can.

A. It was some time after he made the first lock; I cannot tell the exact time.

X-q. 162. State, as nearly as you can, how long after.

A. I believe it was during the winter time when we stopped.

X-q. 163. Is that the best answer you can give to the last question?

A. Yes, sir.

X-q. 164. Is that lock on that office door yet?

A. That is more as I know; their office is not there now.

X-q. 165. When did you last see it on that door? State as nearly as you can.

A. I cannot remember the time.

X-q. 166. Can you not remember it as nearly as you can?

A. No, sir.

X-q. 167. How long was that lock on that door? State that as nearly as you can.

A. I do not know that; we did not come very much in the office.

X-q. 168. State, as nearly as you can, the number of times you saw in on that door.

A. Well, I saw it about five or six times going through the office.

79 X-q. 169. What was the condition of the two locks which you say you saw in Erbe's drawer respecting their internal works being in sight.

A. The cases were on; I mean the cases of the locks.

X-q. 170. How then could you see the divided hub if the cases were on; or did you not see it?

A. Because the knobs were not in the lock, and the main body of the hub was lying loose inside.

X-q. 171. Then you peeped through the spindle-hole, did you?

A. Yes.

X-q. 172. How many times.

A. I did not mark that down in my remember-book.

X-q. 173. State, as nearly as you can, the number of times that you peeped through the spindle-holes.

A. I just saw it. I did not count it. I *tell* you that already.

X-q. 174. What was your object in peeping through the spindle-holes? (Objected to on the ground that the witness has not said that he peeped through the spindle-holes.)

A. My object was nothing.

X-q. 175. When did you leave Pittsburgh for New York?

A. At 5 o'clock on Friday last.

X-q. 176. Who came to Pittsburgh after you?

A. Mr. Woodruff.

X-q. 177. Who else came on with you and Mr. Woodruff?

A. I believe his name is Porter.

X-q. 178. With whom have you talked about this lock within the last month?

A. With Mr. Porter, Mr. Andrew Patterson, Mr. Masta, and Mr. Woodruff.

X-q. 179. Have they all been present during your examination here?

A. Yes, sir; I believe so; they were here, and I don't know as they are present now.

X-q. 180. What has Mr. Woodruff or any one else paid you or promised you for coming on here?

80 A. He did not promise me anything except to pay my fare and my wages,

X-q. 181. Well, you liked the idea of coming on, did not you?

(Objected to.)

A. I had nothing to do just now, our shop was stopping, and he asked me to come on, and I said I would.

And being re-examined by Mr. Thurston, he deposes and says as follows:

Q. 182. You say that the shop of Jones, Wallingford & Co. was stopped in the early winter of 1860, and that you did not recommence work until some time afterwards, how, in the meantime, did you occupy yourself?

A. We stayed at home.

Q. 183. Did you move on to a farm at any time?

A. No, sir.

Q. 184. Do you wish to be understood as being positive that the lock put upon the office door was the very same lock that Erbe showed you near Christmas time, 1860?

A. Yes, sir.

Q. 185. Had he, between Christmas-time and the putting of the lock upon the door, made any other lock of this kind?

A. I do not know.

Q. 186. Perhaps you do not understand me. I wish to know if the lock which Erbe showed you at Christmas-time, meaning that very same lock, was also the same lock that was put upon the office-door; and, if you say that it was, state how you know it was the same one shown you, and not another one like it.

A. It was the same lock, because we never had another lock before in the shop like it.

Q. 187. Now state, as near as you are able to, how many days or weeks, more or less, after Christmas-time 1860, you saw the lock on the office-door.

81 A. That is more than I can tell; it was during the winter-time when we stopped; I cannot tell you the weeks.

Q. 188. Might not Erbe have made another lock just after Christmas, 1860, and which lock was the one that went on to the office-door?

A. No, sir.

Q. 189. If he had made another would you have been likely to have known it?

A. I would.

Q. 190. Referring to your observation of the locks which lay in Erbe's drawer after work was resumed, state whether it is not true that when the spindle is out of the hub, it was plain to be seen that the hub must be divided in order to slide forward.

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Q. 190. Referring to your observation of the locks which lay in Erbe's drawer after work was resumed, state whether it is not true that when the spindle is out of the hub, it was plain to be seen that the hub must be divided in order to slide forward.

A. Certainly; the hub must be divided. As soon as you take the spindle out the hub moves forward out of its position.

BERNARD BROSI.

Subscribed and sworn to before me this 18th day of January, 1869.

JOSEPH GUTMAN, JR,
Examiner, &c.

HENRY MASTA, a witness of lawful age, produced on the part of defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Thurston, of counsel for defendants, he deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Henry Masta. I am 38 years of age. I reside in Snowden Township, Alleghany County, Pa., and I am a farmer.

Q. 2. What was your occupation in the year 1860?

A. I was pattern-maker.

Q. 3. For whom?

A. Jones, Wallingford & Co.

82 Q. 4. Did Jones, Wallingford & Co. suspend work at any time in 1860; if so, when?

A. It was about fall.

Q. 5. Do you know Barthol Erbe, and how long have you known him?

A. Yes, I know him, and have known him between 14 and 15 years.

Q. 6. Did Erbe, at any time, show you any alleged improvement in reversible latches; if so, when first?

A. 1st January, 1861.

Q. 7. Was it on New Year's day?

A. Yes, sir.

Q. 8. State how he came to show such improvement to you, and under what circumstances?

A. He was on his way going to church; he passed my house and stepped in and showed me this lock with a reversible latch.

Q. 9. Did you examine the lock with the case open? If so, describe the lock and how it operated.

A. Yes, I did; the lock, you had to pull out the spindle, and the hub was fitted so that it would slide between the case and plate, and let the latch forward.

Q. 10. Examine Defendant's Exhibit A, now shown to you, and state whether the arrangement of the latch with reference to the means by which it is capable of reversal is the same or different from the latch shown you by Erbe, last mentioned.

A. Not a particle of difference; it is all the same.

Q. 11. You say that the hub in Erbe's lock, shown you January 1st, 1861, was divided, so that a portion of it would slide between the case. When the spindle was in the hub, how was the whole hub made up?

A. The whole hub was made of three pieces; one part was solid to the spindle or knob-shanks, and then the hub that slides between the plate and case, and a washer at the other side of the spindle.

Q. 12. Did you continue at your trade of pattern-making? And, if you went into any other occupation, state what, and when you changed.

A. I changed on to a farm in March, 1861.

83 Q. 13. Have you remained on such farm since that time?

A. Yes. I have been on a farm since that time.

Q. 14. Did you build any house that year, and when?

A. Yes. I commenced building in April, 1861.

Q. 15. Is the year put upon your house? If so, what year, and where is it marked?

A. Yes, 1861. It is marked on the water conductor under the roof.

Q. 16. Is it a common thing to mark houses with their date of building in that country, at that place?

A. Yes, sir.

Q. 17. You say that you have lived on the farm since you moved there. Do you follow your trade at all? And if so, at what seasons of the year?

A. I follow my trade through the winter during two or three months.

Q. 18. When next, after going on to the farm, did you resume your trade?

A. About a year afterwards.

Q. 19. For whom did you work, and at what season of the year?

A. For Jones & Nimick Manufacturing Co. through the winter.

Q. 20. When business was resumed at Jones, Wallingford & Co.'s, after the stoppage in the winter of 1860, under what name was it conducted?

A. Jones & Nimick Manufacturing Co.

Q. 2. Are you perfectly positive that it was January 1st, 1861, that you saw Erbe's improved latch?

A. Yes, sir.

Q. 22. Is there any chance of your being mistaken?

A. No, sir.

Q. 23. Did you see Erbe's lock at any time immediately after January, 1861, and before you went on the farm? If so, where, in whose possession, and how often?

A. I did not see it again before I went on the farm.

Q. 24. When did you see it for the second time?

A. I cannot recollect.

Q. 25. When you first saw Erbe's latch, did it exhibit a new idea to you?

84 A. Yes, sir.

Q. 26. Had you ever seen or heard of a latch that could be reversed before?

A. I had never seen one.

Q. 27. After January, 1861, and before you went on the farm, did you have any employment at the shop of Jones, Wallingford & Co.?

A. No, sir.

Adjourned to January 19th, at 10 a. m.

TUESDAY, *January* 19, 1869.

Present, counsel as before.

Examination of witness resumed:

Q. 28. You have said that you removed on to a farm early in the year 1861. During the time that the stoppage occurred at the factory, do you know anything of Erbe's whereabouts at that time? If so, please state.

A. Erbe moved in 1861, March, to the country.

Q. 29. How near to your farm did he locate?

A. Two farms between.

Q. 30. What sort of connection did he have with Jones, Wallingford & Co. at that time, and how soon did he resume work at the shop, if you know?

A. I could not tell that—how he was fixed with Jones, Wallingford & Co. at that time. I do not know when he went back to the shop.

Q. 31. Can you tell when Jones, Wallingford & Co. resumed work regularly or about when?

A. I could not remember.

Cross-examination by Mr. Gifford:

X-q. 32. You say that Erbe showed you the lock 1st of January, 1861. If you saw the lock after that, state when and where.

A. I saw the lock at Lawyer Miller's office in Pittsburg. I could not remember the time.

X-q. 33. State the time as nearly as you can.

A. I think it was about a year ago.

85 X-q. 34. How came you to see it at Lawyer Miller's office about a year ago?

A. I was a witness there for the same lock.

X-q. 35. In what case or controversy was you a witness there?

A. I could not tell.

X-q. 36. Did you see any other lock like the one you say Erbe showed you in January, 1861, between that time and the time when you say you was a witness at Lawyer Miller's office? If you did, state when and where.

A. Yes, I did, at Squire Alderman's, at Pittsburg. I could not tell exactly the time. It was in the winter time.

X-q. 37. State the time as nearly as you can, and what at that time was going on at Squire Alderman's?

A. I expect it was about two or three years ago. I am not exact about it. They were taking testimony there about the same lock, and I was a witness.

X-q. 38. Had you seen such a lock between that time and the 1st of January, 1861? If you had, state when and where.

A. I am not certain about it.

X-q. 39. You say Erbe showed it to you while on his way to church. What day of the week was the 1st of January, 1861?

A. That is so long ago that I cannot remember.

X-q. 40. Did Erbe take the lock to church that day?

A. I could not tell. He put it in his pocket.

X-q. Did he also have a screw-driver with him while on his way to church?

A. I did not see none.

X-q. 42. Then he did not open the lock at that time, did he?

A. Yes, he did.

X-q. 43. How did he get it open?

A. With a screw-driver.

X-q. 44. Haven't you just stated that you didn't see a screw-driver?

A. Yes, I did; but I had one myself.

X-q. 45. Can you imagine how Erbe came to stop on his way to church to show you that lock?

86 A. He is a good friend of mine, and his road was right past the house in going to church; so he stopped in and showed the lock to me.

X-q. 46. What church was it—what denomination?

A. Presbyterian.

X-q. 47. Did you go to church that day?

A. I cannot remember. I don't go to the same church as Erbe went.

X-q. 48. Do you know who preached at the church at that time where Erbe was going?

A. I couldn't remember; but I think, to my best knowledge, it was Zimmerman.

X-q. 49. In what capacity was Erbe employed by Jones, Wallingford & Co.?

A. He was employed to look over the lock-shop.

X-q. 50. Do you recollect of Jones, Wallingford & Co. being stopped from making the Janus-faced lock?

A. Yes, sir.

X-q. 51. Can you state about the time?

A. I could not exactly.

X-q. 52. Was it before or after the time when you say Erbe showed you the lock on the 1st January, 1861?

A. I could not tell.

X-q. 53. Do you recollect when Jones, Wallingford & Co. commenced to manufacture locks with a swivel-latch, which could be drawn forward and turned without altering any other part of the lock?

A. Yes, I do.

X-q. 54. State the time as nearly as you can.

A. I could not tell the exact time, because I was not employed there.

X-q. 55. State the time as nearly as you can.

A. About two years ago, as much as I can recollect; but I am not certain about it.

X-q. 56. Did they make a large number of that kind of locks?

A. I could not tell.

X-q. 57. Who contrived that means of allowing the latch to be drawn forward and turned?

A. I think it is Erbe's. I am not certain about it, though I think so.

87 X-q. 58. Are you aware that, after the court stopped the manufacture of the Janus-faced lock by Jones Wallingford & Co., that they were anxious to get a substitute for it, which would answer for a right-hand door and a left-hand door?

A. I could not tell what they was anxious to get one or not.

X-q. 59. Are you not aware that they made efforts to get such substitute for the Janus-faced lock?

A. Yes, they did try.

X-q. 60. Before they were so stopped did they not make and sell large quantities of the Janus-faced lock?

A. I could not tell that; they make locks but I can't tell whether they sold them or not.

X-q. 61. Do you suppose that they made large quantities of locks without selling them, or a large quantity of them?

A. I told you, sir, I could not tell whether they sold them or gave them away, because I did not look into their business.

X-q. 62. What do you believe about that?

A. I believe about that, that I had nothing to do with those kind of things. I believe I don't know anything about it.

X-q. 63. Is that the most intelligible answer you can give to the last question?

A. That is all I can do.

X-q. 64 What was the object of a Janus or two faced lock, such as were made by Jones, Wallingford & Co.?

A. So that you could use them for right and left.

X-q. 65. You mean on a door which opened either to the right or left, do you not?

A. Yes, sir.

X-q. 66. You say Erbe went on a farm. Did he own and work the farm; and if yea, how long did he work it?

A. He owned the farm. How long he worked it I couldn't tell exact; may be about three years or so.

X-q. 67. Do you work for the Jones & Nimick Manufacturing Company now; if not, when did you last work for them?

A. Yes, sir; I am employed there now.

88 X-q. 68. Do they make locks there now for right and left hand?

A. They don't do anything now. They got closed up.

X-q. 69. Why are they closed up, and how long have they been so?

A. They have been closed up about five weeks ago. They generally close up a week or two, or five weeks or so in winter time about Christmas or New Year's, to take account of stock.

X-q. 70. When they were last in operation did they make right and left hand locks?

A. Yes.

X-q. 71. What kind?

A. With a swivel-latch.

X-q. 72. Were they of the kind the latches of which could be drawn forward and reversed without altering any other part of the lock?

A. Yes, sir.

X-q. 73. During the time that Erbe worked his farm, what part of the time, if any, did he work for Jones, Wallingford & Co. or their successors?

A. I could not tell.

X-q. 74. Did he work for them at all during that time. And if you know he did, then state, as nearly as you know, what part of that time he worked for them.

A. Yes, he worked for them. I could not give you no exact idea about this whether he worked a day or a week.

X-q. 75. How does it happen that you and Erbe were so intimate, that he came to your house while on his way to church, and exhibited to you a lock, and yet you should have so little idea of what part of the time while he was on his farm, he worked for Jones, Wallingford & Co. or their successors?

A. He was a good friend of mine and showed me the lock. I had no interest to look about such a thing as that, how long he worked; it might have been sometimes a day or two days or a week. It would be impossible for me to know about such a thing like that.

X-q. 76. How far was Erbe's farm from the lock-shop?

A. About nine miles.

89 X-q. 77. How could Erbe superintend the lock-shop when working a farm at that distance off?

A. He came in on Monday and went home on Saturday; so he was there through all the week.

X-q. 78. Did he do that?

A. Yes, sir.

X-q. 79. How frequently did he do that?

A. He has been doing it as long as there was any business to do there, as long as the shop was going, you know.

X-q. 80. Which first went on his farm, you or Erbe?

A. I did.

X-q. 81. How long first?

A. I couldn't tell exact the time; may be two or three weeks between, you know.

HENRY MASTA.

Subscribed and sworn to before me this 19th day of January, 1869.
JOSEPH GUTMAN, J'R,
Examiner, &c.

ANDREW PATTERSON, a witness of lawful age, produced on the part of defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Thurston, of counsel for defendants, deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Andrew Patterson. I am 43 years of age. I live in Birmingham, Alleghany County, Pa. Until recently I was a manufacturer of locks and other small hardware.

Q. 2. In what capacity have you been employed, and with whom during 1861?

A. During 1860 and till March, 1864, I was superintendent of Jones, Wallingford & Co.'s lock-factory, in Pittsburgh, and their successors.

Q. 3. Did said concern suspend manufacture at any time during 1860, and when, and how soon afterwards did they resume?

90 A. They did suspend about the first of November, 1860. They did not resume again in full force for many months.

Q. 4. Do you know Barthol Erbe? How long have you known him, and state whether he showed you at any time an alleged improvement in reversible latches; and when first; and describe the improvement in such latches which he showed you, and which is exhibited in any model before you?

A. I have known Barthol Erbe since year 1856, and been engaged in the same factory the major part of the time since then. He has at different times shown me alleged improvements in reversible latches. About the 1st of January, 1861, he showed me an improved reversible latch of his invention, like the model now shown me, marked Defendants' Exhibit A. The improvement in which consisted in constructing the hub or follower, so that when the knob-spindle was withdrawn the hub would slide forward between the cases, so that the head of the latch would protrude beyond the face of the lock so as to permit its reversal from right to left; the latch-head being connected with the yoke by a swivel-joint, so that it might be reversed.

Q. 5. Have you examined model, Defendants' Exhibit A, now shown to you? If yea, state whether the same exhibits the same or a different mode of operation with respect to the means by which the latch is capable of reversal, and that shown to you by Erbe about January, 1861.

A. I have examined Exhibit A. It does not differ in any particular, but is identical in principle and mode of operation with the lock shown me by Mr. Erbe at that time.

Q. 6. At the time such lock was first shown you by Erbe, was it shown to you as and did you so regard it as a new invention?

A. It was shown to me as such and I so regarded it.

Q. 7. Do you remember whether the lock so shown you, or one like it, was at or about that time put on the office door of Jones, Wallingford & Co.?

A. It was our uniform practice to put all new locks on the doors about the office to test them, and I believe that one was put on, but at this distance of time I cannot say positively that it was.

91 Q. 8. Do you remember whether Erbe subsequently made one or more additional locks of the same kind?

A. I believe he did, but cannot say positively such was the case.

Q. 9. State how, in the lock shown you by Erbe at the time named, the hub or follower was made up.

A. The part of the hub which moved inside of the case was a single piece with arms like an ordinary follower or hub. There was on the shank or spindle a shoulder or boss, which filled the spindle-hole. In one side of the case, there was also a loose ring or washer which slipped on the spindle from the other side, and held the spindle in the centre of the hole of the case on the other case.

Q. 10. How do you fix the time when Erbe showed you the lock—by reference to what circumstance?

A. My recollection is distinct that it was in the January during which the long-continued stoppage of the factory occurred, and I know that that was in the fall of 1860 and 1861, from the fact that just previous to the stoppage I was the recipient from the hands of the shop of a present of a watch, on which is inscribed the date, "October 15, 1860." I wear the watch, and have it on me now, and the inscription on it is as follows: "Presented to Andrew Patterson by the employees of the Variety Works, Pittsburgh, October 15, 1860."

And being cross-examined by Mr. Gifford, he deposes and says:

X-q. 11. At the time you were in the employ of Jones, Wallingford & Co., what was your business?

A. I was superintendent of their factory generally.

X-q. 12. You say that Erbe first showed you a lock like Exhibit A about the first of January, 1861, and that he has at different times shown you alleged improvements in reversible latches. What improvements do you mean, if any, besides that in the lock Exhibit A?

A. First, a reversible latch in which the latch-head was disconnectible from the internal moving parts, withdrawn clear from the
92 lock, and reversed and returned again. Again, a double-beveled latch, one bevel of which operated on the right, the other on the left hand door; then the lock now in issue, as shown in Exhibit A; after that a latch which drew forward without being disconnected on a spring so as to allow it to be reversed similar to that which the Jones & Nimick Manufacturing Co. are now making; also, a round-headed latch which revolved in the case without being moved in its longitudinal direction; and others, two of which are now in the Patent Office, on applications for patents.

X-q. 13. When did Erbe first show you the improvement first mentioned in your last answer?

A. I think in 1859, shortly after Jones, Wallingford & Co. were restrained from making the Janus-faced lock.

X-q. 14. What was done with that improvement?

A. The particular lock was put on one of the doors of the office, and I think remained there as long as I remained in the employ of the company. Nothing further was done with the improvement, for the reason that the company were enjoined from making the Janus-faced case.

X-q. 15. Did such a lock as that require a Janus-face to make it applicable to either a right or left hand door?

A. Yes, sir.

X-q. 16. Could not such a lock be put on either a right or left hand door, having the same side outward in both instances?

A. Not properly.

X-q. 17. When did Mr. Erbe show you the second improvement mentioned in your answer to the 12th cross-interrogatory; that is, the one with the double-beveled latch?

A. I think in 1860.

X-q. 18. What was done with that improvement?

A. I believe Erbe sold it to Calvin Adams, of Pittsburg.

X-q. 19. Was that improvement manufactured in the establishment of Jones, Wallingford & Co.?

A. Never.

X-q. 20. Were locks with that improvement manufactured by any one, so far as you know?

A. I think not.

X-q. 21. What was the objection to that lock, if any?

93 A. In my view the objection was that it required a peculiar keeper that was somewhat unsightly.

X-q. 22. Could not locks with the first improvement mentioned in your answer to the 12th cross-interrogatory be used on a right or left hand door without a Janus-face as well as locks with the improvement second mentioned; that is, with the double-beveled latch?

A. Neither of them can be properly used without a Janus-faced case.

X-q. 23. When did Erbe first show you the improvement thirdly mentioned in your answer to the 12th cross-interrogatory?

A. I think about January 1st, 1861.

X-q. 24. Can you state whether it was on the 1st of January, 1861, or just before or just after?

A. I could not say whether it was before or after, but my recollection is, that it was about that time.

X-q. 25. May it not have been a month after that time?

A. I think not; my impression is that it was really before the 1st day of January.

X-q. 26. Can you state positively it was not two months after that 1st of January, 1861; and if you can, what enables you to do so?

A. I can state that it is my most positive conviction that it was not two months, nor any considerable time after January, 1861.

X-q. 27. What distinction do you make between your most positive conviction, and being able to state positively?

A. At this distance of time I would not state anything as absolutely positive as regards dates without some specific record connecting the incident with the date.

X-q. 28. May it not have been a month before the 1st of January, 1861, when Erbe first showed you the lock in question?

A. I think not; I am clear that it was not.

X-q. 29. Where was he when he showed it to you?

A. In the factory of Jones, Wallingford & Co., in Pittsburg.

94 X-q. 30. State what part of the factory, if you can, and on what day and time of the day, if you can, and who else, if any one, was present.

A. My recollection is that it was in the pattern-room, but I am unable to indicate the day or time of the day, or if any one was present.

X-q. 31. Did you afterwards see any other lock of that kind; and if yea, when first and where?

A. I think one or more experimental locks of that kind were made shortly thereafter, but I cannot speak positively as to having seen a second one before 1864.

X-q. 32. Where did you see one in 1864?

A. I saw one that was used as a model on Erbe's application for a patent, which I think was in 1864.

X-q. 33. In that application do you know what he applied for a patent for in the lock?

A. I do not remember the terms of the claim, though I drew the application myself.

X-q. 34. When did Erbe first show you the improvement mentioned in your answer to the 12th cross-interrogatory, of a latch which drew forward without being disconnected, similar to the one the Jones & Nimick Manufacturing Company are now making?

A. I think within a year after the invention of the one in issue in this case.

X-q. 35. What was done with that improvement?

A. Nothing in the way of manufacturing until after the injunction was moved in the Janus-faced case; after that, the Jones & Nimick Manufacturing Co. began to manufacture that lock.

X-q. 36. How long since you worked for Jones, Wallingford & Co. or their successors, and what is your present occupation?

A. I left their service the last time about March, 1867. I am not now engaged in any active business.

And being re-examined, he deposes and says as follows:

Direct 37. Was the lock shown you by Erbe, early in 1861, a complete working lock?

95 A. The latch part was complete; I am not clear whether there was a lock-bolt in it or not. The latch and its connections were complete. It was unimportant whether there was a bolt in or not.

Interrogatory 38. You have referred to the fact that at a certain time Jones, Wallingford & Co. were enjoined against making the Janus-faced case. State, if you know, why said company did not proceed to manufacture the Erbe lock, which would not be an infringement of the Janus-faced case; and also state, if you know, when they recommenced to manufacture the Janus-faced case, and why.

A. The Erbe lock would be necessarily an infringement of the Janus-faced patent, and for that reason they did not begin to manufacture until after the injunction was dissolved.

A. PATTERSON.

Subscribed and sworn to before me this 19th day of January, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

M. J. WOODRUFF, a witness of lawful age, produced on the part of the defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy herein, and being examined by Mr. Thurston, of counsel for defendant, he deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. M. J. Woodruff. I am 32 years of age, and live in New Britain, Conn. I am a manufacturer.

Q. 2. Have you ever before seen defendant's lock, Exhibit A, now shown you? If so, state when, and all facts connected with its procurement.

96 A. I have before seen the lock. I first saw it on the 24th day of July last past. I went to Pittsburg at this time for the purpose of making the inquiry in regard to Mr. Erbe's invention, and asked him to make for me a lock-model exactly after the lock he invented or alleged to have invented in the year 1860. I saw Mr. Erbe in the office of the Jones & Nimick Manufacturing Company, Mr. J. H. Jones being present. When I asked for a model of the lock Mr. Jones

at first objected to Mr. Erbe's making it; he afterwards said that at some future time Mr. Erbe might make one, and he would send it on to us. Mr. Erbe seeing that I was anxious to take it along with me, said he could make one in a very short time, and that if I would call at the office the next morning I could have the model. This transpired on the 23d of July. I did call on the morning of the 24th, and Mr. Jones assured me that the model was not made for the reason that Mr. Erbe had been busy on other work. Just at that time Mr. Erbe came into the office, and on seeing me said, I have the lock done and will go and get it. He went out, as I suppose, to his room in the factory, and came in with the lock and gave it to me.

Q. 3. Is the model in exactly the same condition to-day in all respects that it was in when handed to you by Mr. Erbe?

A. It is in precisely the same condition in every particular, and each and every piece are the identical pieces of metal.

Q. 4. Have you procured on the part of the defendants the attendance of Messrs. Brosi, Masta, and Patterson, as witnesses in this case? If so, for what reason were they brought to New York instead of their examination being taken in Pittsburg; and by whom were you requested to bring them to New York?

A. I have procured their attendance here. They were brought to New York as a matter of economy in expenses in bringing them here instead of taking attorneys to Pittsburg. Counsel requested their attendance here.

Q. 5. Did you make efforts to secure the attendance of Mr. Erbe upon this examination as a witness. Was he willing to come, so far as he was concerned, and how was he prevented from coming?

A. I did make strong efforts to procure his attendance at
97 this examination. I saw him first on this last visit to Pittsburg in the office of Jones & Nimick Manufacturing Company, in Mr. Jones's presence, on Thursday morning of last week. I told him that our suit was coming on in New York, and that I had come there for the purpose of getting himself, Mr. Patterson, and others to go on to New York with me and testify in the case. He replied that he would be glad to go and testify in the case, so far as he was concerned, and would do so, and inquired when I wished to start, &c. I replied the following night, Friday night. At just this time Mr. Jones objected to his going, and to my talking with Mr. Erbe further on the subject. He said to Mr. Erbe that he could not go to New York to testify in this case with his consent, and that he would do all he could to prevent the other parties, namely, Patterson, Masta, and Brosi, from coming. Mr. Jones then said that he was in New York two or three weeks ago and held a long consultation with Mr. Gifford on the matter of our obtaining these men as witnesses; that at that time he determined to prevent our obtaining them if possible. I saw Mr. Erbe afterwards, and, on account of Mr. Jones's treatment of the matter, he could not come, as he was in Mr. Jones's employ. At the same time again saying he would be glad to come.

Interrogatory 6. Did you or not on any occasion procure the ex-parte affidavits of the witnesses who have been examined in this case, and also that of Mr. Erbe, at Pittsburg, before Squire Stevenson; and if yea, when?

(Objected to.)

A. I did; the exact date of it I don't know as I can give without reference to the day which was set for the motion for the preliminary in-

junction; it was a short time before that. The business of taking them at that time was principally done by our counsel. I procured them earlier than that, I think in the latter part of August, and was present in Birmingham in the office of Mr. A. B. Stevenson; it was in September—2d or 3d of September—instead of August.

98 And being cross-examined by Mr. Gifford, he deposes and says:

X-q. 7. When did you first have a conversation with Mr. Jones respecting this suit, or the patent on which it is brought?

A. On the 13th day of March, 1868.

X-q. 8. Where was that conversation and under what circumstances did it take place?

A. It was in the office of the Jones & Nimick Manufacturing Company in Pittsburg. The circumstances were that I went there to make inquiries about reversible latches generally.

X-q. 9. Whom did you first apply to when you first went there?

A. J. H. Jones.

X-q. 10. Did you find him communicative on the subject?

A. Reasonably so.

X-q. 11. Did you find him less so when you were last at Pittsburg?

A. I did.

X-q. 12. When you saw him in March, 1868, did he propose, or offer, or consent to aid you in defending against the Kirkham patent?

A. He did not directly.

X-q. 13. Did he indirectly; and if yea, how?

A. By nominally complying with my request for a model of the Erbe lock, and also answering any questions that I asked him in relation to Mr. Erbe's lock; part of which I afterwards found to be true, and part of which I found to be otherwise.

X-q. 14. Did you say anything to him to the effect of having him or his company join you in defending against the Kirkham patent?

A. I did not.

X-q. 15. How many times have you been to Pittsburg on this subject?

A. I should think three or four, on this and different subjects.

99 I have made inquiries in relation to this on three or four occasions when I have been there. I do not know that I can say that any one of my visits there have been solely on this business except the last.

X-q. 16. Have you been anywhere else inquiring about reversible latches?

A. Yes.

X-q. 17. When, where, and of whom?

(Objected to.)

A. I have inquired and talked about reversible latches incidentally in nearly every place I have been in for the past two years.

X-q. 18. How has it happened that you have been so diligent in your pursuit of reversible latches?

A. Because reversible latches were an article of our manufacture, and of course I exercised the same diligence in looking up new ideas in those particular goods that other members of our company do in looking after other kinds of goods—reversible latches having been more particularly, perhaps, than others, under my charge to look after.

X-q. 19. Did you not, during that time, find anything in the way of reversible latches that suited you?

A. I don't understand the question.

X-q. 20. What is there about the question which you do not understand?

A. What you mean by asking if I found reversible latches that suited me; one might suit me in one respect and not in any others; one might suit me in two respects.

X-q. 21. How many kinds did you find during your two years' inquiry which suited you in any respect? and please specify in what respect.

A. I do not know how many kinds I have found, nor in what respects those I have found suited me; and I have not been looking after reversible latches altogether for two years.

X-q. 22. Do you know that you have found any one kind that suited you in any respect?

A. I do.

100 X-q. 23. In what respect?

A. In respect that it was a good working lock in general, and can be cheaply made, and work well and be durable when it is on the door.

X-q. 24. I inquire in respect to the reversible latch. Please answer the question in reference to that.

A. There are a great many reversible latches; I do not know what particular latch the inquiry is made about.

X-q. 25. Have you found a great many?

A. Several.

X-q. 26. What kind has suited you best?

A. Nearly all of them had merits in some particular or particulars, and nearly all of them, or all of them had faults or objections; nearly all of them.

X-q. 27. Question repeated and a direct answer requested.

A. I don't understand the question if my former answer was not an answer to it.

X-q. 28. I thought the question was a plain one. Please specify what there is about it which you do not understand, and I will endeavor to simplify it if possible?

A. I am not prepared to say which would suit me best. I have not weighed all the points of merit and demerit, and could not say which particular reversible lock, all things considered, would suit me best.

X-q. 29. Which kind have you recommended your company to make?

A. I do not know as I have specially advised them to make any particular kind. I believe they have one which they intend to make that is a very satisfactorily-working lock.

X-q. 30. What idea do you intend to convey by the word specially in your last answer?

A. I mean by that, that there is no particular lock that I have brought to them and called their special attention to, and advised them to throw out those they are now making and make in preference.

X-q. 31. Who advised those to be taken in which you speak of throwing out?

101 A. I think they were taken in by general consultation, and after looking them over they concluded to adopt them.

X-q. 32. Have you not stated in this examination that reversible latches came more under your charge than under the charge of any other member of your company?

A. I said perhaps they had during the last year or two.

X-q. 33. Did you say perhaps, and what do you now mean by that word in your last answer?

A. I think I said perhaps. I mean by it that while there is no formal vote of the board of directors placing this particular business in my hands, and while there are half a dozen of us each taking part in the general management of the business at the factory, the matter of looking after patent goods, which includes reversible latches, has been left with me more particularly than with other members to manage.

X-q. 34. Is there any formal vote of your company placing any particular branch of the manufacture in the charge of any of your members; and if yea, when was any such vote passed, and with regard to whom and what branch?

A. I don't know that there is.

X-q. 35. Do you mean to be understood as swearing that you have not recommended to your company or expressed a preference for any kind of reversible latch?

A. No; I do not mean to be so understood.

X-q. 36. Then specify what kind you have so recommended or expressed a preference for.

A. I have expressed a preference for what we call the Aston lock.

X-q. 37. How does the latch swivel, if at all, in that lock?

A. The invention is not yet patented, and I shall have to decline explaining the lock.

X-q. 38. Have you manufactured that kind for sale?

A. A few may have been manufactured; I think none have been sold.

X-q. 39. What other kind or kinds have you at any time recommended or expressed a preference for?

102 A. We have a latch that we call the Lion latch; for that, I presume, I have expressed a certain degree of preference. I may have expressed myself as of the impression that it was a good latch, nothing definite.

X-q. 40. How does the latch swivel in what you call the Lion latch?

A. That is not yet patented, and I must decline to explain it.

X-q. 41. Have you manufactured or sold the kind you call the Lion latch?

A. I think we have not.

X-q. 42. When did you first express a preference for that?

A. I can't give you the exact date, but I think recently.

X-q. 43. You have now specified two kinds for which you have expressed a preference. Is there any other kind which you have recommended or for which you have expressed a preference at any time?

A. Yes; there are several others for which in some particular I have expressed a preference.

X-q. 44. Which kind did you recommend or express a preference for last before the two kinds which you refuse to describe, because not patented?

A. I think it was what we call Brooks. I am not positive that that was immediately preceding, as there are so many of them.

X-q. 45. How does the latch swivel in what you call the Brooks, and when did you express a preference for that?

A. That is not yet patented, and I must decline to explain it.

X-q. 46. What kind did you recommend or express a preference for last before the kind you call the Brooks, and which you say is not patented?

A. I think it was what we call the Ogden lock.

X-q. 47. How does the latch swivel in what you call the Ogden lock?

A. That is not patented, and I must decline to explain it.

X-q. 48. What kind did you recommend or express a preference for last before the one which you call the Ogden lock?

A. I cannot say positively; it may have been the Fisher lock.

103 X-q. 49. If it were the Fisher lock, then how does the latch swivel in the Fisher lock?

A. By a partial withdrawal of the latch through the face of the lock.

X-q. 50. Has your company manufactured and sold the Fisher lock?

A. I think not.

X-q. 51. Now, Mr. Woodruff, do you mean to be understood as saying or insinuating that you have never recommended or expressed a preference for a swiveling-latch lock which your company have manufactured and sold?

A. No, sir; I do not mean to be so understood. At the same time I cannot say that I ever did recommend the making of such a lock?

X-q. 52. Now please tell us what swiveling-latch lock you last recommended or expressed a preference for, which your company has manufactured and sold.

A. I do not know.

X-q. 53. Do you mean to say that you have never recommended or expressed a preference for any swiveling-latch lock which your company have manufactured or sold, or only that you do not remember the last one which you so recommended or expressed a preference for?

A. I mean that I do not remember ever to have recommended specifically to our company the manufacture of any particular reversible lock that they have manufactured and sold. If I have so recommended, I do not know which one was last.

X-q. 54. Question repeated.

A. I intended the same answer to apply to expressing a preference for.

X-q. 55. I believe you are a stockholder in your company, are you not?

A. I am.

X-q. 56. What office do you hold in you company, if any?

A. I do not hold an office.

X-q. 57. Have you at any time held an office in the company; if yea, when did you cease so to hold it?

A. I have not held any office in the company. I mean by

104 office such as the law prescribes for joint-stock companies.

X-q. 58. Are you not a director in your company?

A. I am not.

X-q. 59. Or trustee?

A. I am not.

X-q. 60. Have you not been a trustee or director?

A. I have not, as I understand the question.

X-q. 61. Are you one of the defendants in this suit?

A. I am not directly.

X-q. 62. Are you the Mr. Woodruff who is named as one of the defendants in this suit.

A. I am not.

X-q. 63. What relation, if any, are you to that Mr. Woodruff?

A. Second cousin, I believe.

X-q. 64. What kind of reversible latch-locks have your company manufactured and sold the most of for the last two years?

A. I think the Brooks lock.

X-q. 65. When did your company commence to manufacture what you call the Brooks lock?

A. I cannot give the date.

X-q. 66. State it as nearly as you can.

A. I should say from a year and a half to two years and a half ago; somewhere in the vicinity of two years ago.

X-q. 67. Has your company manufactured and sold that Brooks lock publicly?

A. So far as they have manufactured and sold it at all, I suppose.

X-q. 68. According to your best information and judgment, how many of what you call the Brooks lock have your company manufactured and sold?

(Counsel for defendants advises witness not to answer the question.)

A. I have no knowledge whatever.

X-q. 69. According to your best knowledge and belief, have your company manufactured and sold as many as ten of what you call the Brooks lock?

A. I should say that they have. At the same time I have no knowledge whatever of the number; it would be mere guess-work.

105 X-q. 70. According to your best knowledge and belief, how many reversible latch-locks have your company made and sold within the last two years?

A. I have no knowledge whatever on the subject, and consequently have no basis for any belief.

X-q. 71. They make and sell them by wholesale, do they not?

A. All the goods we make we sell at wholesale, including reversible latches.

X-q. 72. In what way or quantities are those locks put up for shipment which are sold by your company?

A. I do not know.

X-q. 73. From your destitution of information respecting the affairs of your company, you, perhaps, are not aware that they have made and sold any locks having a divided hub or follower, are you?

A. I am aware that they have made and sold reversible locks with a divided hub or follower.

X-q. 74. Are you aware that they have been doing so for two years or more?

A. My former answer covers that. I said from one and a half to two years. This is the lock I meant when I last spoke of the Brooks lock.

X-q. 75. Why do you call it the Brooks lock?

A. Because it was invented by a man of the name of Brooks.

X-q. 76. Where is he or where does he reside, and what is his first name?

A. I don't know where he is. The last I did know of him, he lived in New Britain, Connecticut, and his name is Asa T. Brooks.

X-q. 77. Have your company, for the last two years, sold any reversible latch-locks other than what you call the Brooks lock, which has a divided hub; and if they have, what quantity?

A. They have sold other reversible latches. I know nothing about the quantity.

X-q. 78. Do you mean to be understood as swearing that you have never recommended or expressed a preference for the reversible latch-lock which you have called the Brooks lock?

106 A. I don't know which Brooks lock you refer to. I have spoken of two Brooks locks.

X-q. 79. I refer to the one which you say your company have sold for about the last two years and a half. Please answer the last question with reference to that.

A. I refer to one which our company have made for one and a half to

two and a half years last past; and in reference to that I may or may not have expressed a preference.

X-q. 80. Do you not know that you had a preference for that swiveling latch-lock, so far as the means of swiveling the latch was concerned?

A. My knowledge of reversible latches, two years ago, was very limited. I may, at that time, have thought that it was an improvement over several others.

X-q. 81. Do you not know that you thought so?

A. No, sir; I do not know.

X-q. 82. Did you not say to me last spring that a divided hub was the best means for swiveling a lock-latch that you knew of?

A. I do not know that I did.

And being re-examined by Mr. Law, he deposes and says:

Int. 83. The Brooks lock which you refer to in your answer to the 45th X-interrogatory, as not having been patented, and the operation of which, therefore, you declined to explain—is that the same or a different lock from the other Brooks lock which you state your company has manufactured?

A. It is a different lock.

Int. 84. Has your company manufactured and sold any of the Brooks lock referred to in your answer to the 45th X-interrogatory?

A. They have not.

M. J. WOODRUFF.

Subscribed and sworn to before me this 19th day of January, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

Adjourned until further notice.

107 FEBRUARY 6, 1869—11 *a. m.*

Present, counsel as before.

HENRY B. RENWICK, a witness of lawful age, produced on the part of the defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and being examined by Mr. Thurston, he deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Henry B. Renwick. I am 51 years of age. Reside in the city of New York. By profession a civil and mechanical engineer, chiefly occupied in the examination of machinery and the investigation of patents.

Q. 2. Have you examined the re-issued letters-patent granted on the 27th day of January, 1863, to Charles A. Miller, of Philadelphia, as assignee of W. S. Kirkham, and which said letters-patent are the re-issue of original letters-patent, granted to said Kirkham on the 11th of June, 1861, and do you understand the invention described therein?

A. I have examined them and understand the invention therein described.

Q. 3. Have you examined the lock now shown you, marked "Defendants' Exhib't A, Coffin vs. Ogden?" And if so, state whether you find in such lock the invention described in the said re-issued letters-patent enquired of, or any portion of the invention therein described; and if so, what, and state your reasons for the conclusions you come to in respect thereto.

A. I have examined the lock marked Defendants' Exhibit A. In the

re-issued patent there is described a reversible lock, that is, a lock which may be applied to either a right or left hand door in such manner that the beveled side of the latch may be in proper relation to the keeper, so as to enter the same when the door is shut. There are three features which go to make up the invention, namely: First, a reversible latch-bolt of peculiar construction—the construction being such that it can be turned over or reversed, when pulled out to a certain distance from the case of the lock; such distance being greater than the dis-
108 tance to which it is usually shot, and that it is impossible to reverse it so long as it occupies the ordinary short and retracted position of a bolt. The second feature is a hub of peculiar construction. The hub of a lock serves two purposes, the one to centre the square spindle of the knob and support it in position in the circular holes in the walls of the lock, the other to support the arms or tappets which act upon the latch so as to retract it when the knob is turned. This hub is usually made in one piece. In the patent it is described as being divided in such manner that the part containing or carrying the arms is seperable from the other parts of the hub, and free to slide within the walls of the lock, while the other parts of the hub are retained in place in the holes through those same walls. The third feature is the spindle to which the knobs are attached, which is of the ordinary construction. It results from this construction, that when the spindle is out of the lock the latch may be pulled out further than usual, carrying the arms with it by means of the usual lugs or projections, which move with the latch-bolt and against which the arms or tappets act when so pulled out. The latch may be reversed and returned to its ordinary position in the lock, if the spindle be now passed into the hub. It locks that portion of the hub to which the arms are attached fast in its usual position, this locking being effected by the cylindrical parts of the hub, (which enter the lock walls,) holding the spindle in position, and by the spindle passing through that part of the hub to which the arms are attached, and thus holding the divided hub together as if it were an ordinary hub made in one piece.

In the lock, marked Defendants' Exhibit A, I find a reversible latch and spindle of precisely the same character and construction as are described in the patent, and I find a divided hub, parts of which enter the holes in the walls of the lock, and another part of which carries the arms or tappets, and is free to slide in the lock and so constructed that the spindle, when in place, locks all the parts together. This hub thus described being by itself, and in its combinations with the lock and spindle, substantially the same as the corresponding part described and specified in the re-issued patent. There is a formal difference be-
109 tween the two hubs, which is this: those parts of the hub which enter the walls of the lock are represented in the patent as united by a pin passing from one piece to the other, while in the lock, marked Defendants' Exhibit A, there is no connection between those two parts; but this pin has no effect upon the working of the lock, nor any bearing upon the combination which constitutes the lock a reversible one. The lock would possess all its reversible characteristics and operate in the same way if the pin were removed, and I therefore consider the hubs described in the patent, and those existing in the lock, Defendants' Exhibit A, to be the same.

The parts of the hub in the lock A are, first, a loose cylindrical collar, which lies in a hole of one of the walls of the lock, is of about the same thickness as the wall of the lock, and has a square hole through it for the reception of the spindle; second, another collar having a

similar hole through it, and lying between the walls of the lock to which the arms or tappets are attached; third, a collar similar to the first one, but attached to one of the knobs and the spindle. In the lock described in the patent, one of the collars is considerably thicker than the walls of the lock, and enters into the space between them; the other is of the same thickness as the walls; neither of them are attached to the spindle, and the two are connected together by the pin before described, so that they form in fact one piece.

Q. 4. Compare the model, marked "Defendants' Exhibit B, Coffin vs. Ogden," with the model to which is attached a certificate of the Patent-Office, September 11, 1868, under the seal of the Patent-Office, and certifying that such model is a "duplicate of the model in the matter of letters-patent granted to W. S. Kirkham, dated June 11, 1861, Locks and Knob latches," and state wherein, if at all, those models differ in the precise mechanical construction of their parts.

A. In the lock, Defendants' Exhibit B, that part of the latch-bolt which projects outside of the lock case is made in one piece, with a rod which has a head formed upon it, and this head enters a notch in a sliding piece, which embraces the hub and carries the lugs against
110 which the tappets of the hub strike. The head before spoken of as attached to the bolt can be revolved in the notch when this slide is drawn forward to its greatest extent, and the bolt is thrown forward by a spring acting upon the bolt itself. In the lock to which the certificate is attached, the rod attached to the lock-bolt has a notch in it, and this notch is entered by one end of a lever oscillating at its other end upon a pin in the lock-case; this same lever is acted upon by a spring which tends to keep the bolt shut, and has an aperture near its centre into which enters a pin projecting from the slide, which carries the lug and embraces the hub. This lock has therefore one more piece in it than that marked Defendants' Exhibit B. In Defendants' Exhibit B, the hub is made in three pieces, the two outer ones are loose collars with square holes in them for the passage of the spindle, and they are of greater thickness than the walls of the lock, and such collar is at various parts of its length of two different diameters. These collars are further provided with pieces or prongs projecting inward, between which the third part of the hub lies; this third part has formed, in one piece with it, the tappets which act upon the lugs attached to the slide. In the lock to which the certificate is attached the hub, as a whole, is composed of two pieces, one being formed of two collars throughout of the same diameter, one as thick as the lock-walls, and the other about three times as thick, which are united by a rod or bar extending from one collar to the other, the rod and collars being in one piece. That part of the hub which carries the arms or tappets is so formed as to slide between the two collars, and the two tappets are connected by a circular rim. This lock also has a spring secured to the rod and bearing upon that part of the hub which carries the tappets; the object of this spring being to throw the centre part of the hub backwards into place, after it has been pulled forward, in order to reverse the latch bolt. The hub, therefore, as a whole, in the lock with the certificate attached, is formed of two pieces, and in Defendants' Exhibit B it is composed of three pieces. Defendants' Exhibit B has no contrivance substantially the same as the spring referred to, or performing the same duties.

111 Q. Compare Defendants' Exhibit A and Defendants' Exhibit B, and the certified model from the Patent-Office, with reference to the connection of the latch with the slide upon which the lugs are formed.

A. As I have already stated with regard to the lock from the Patent-Office, the connection between the slide and the bolt is by means of a lever; in both of Defendants' Exhibit A and B, the connection between the bolt and the lever is by means of a head on the rod attached to the bolt and a notch in the slide; no lever being used in either case.

Cross-examination of the witness waived by Mr. Gifford.

HENRY B. RENWICK.

Subscribed and sworn to before me this 6th day of February, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

NEW YORK, *February* 6, 1869.

M. J. WOODRUFF, being recalled as a witness on the part of the defendants, being further examined by Mr. Thurston, deposes and says as follows:

Q. 1. Have you heretofore given a deposition on behalf of the defendants in this case?

A. I have.

Q. 2. Referring to your answer to the 2d interrogatory in the deposition by you before given, you state that you requested Mr. Erbe, in July, 1868, to make for you a lock modeled exactly after the lock he invented, or alleged to have invented, in the year 1860. You proceed further to state that Erbe did, on a subsequent day, hand to you a model, and that such model is Exhibit A, produced in this case. Please state whether, at or about that time, your attention was drawn to the fact that such model so made for you exhibited a spring wound
112 around the spindle of the latch, and making an elastic connection between such latch and the horseshoe plate or slide; and also, state whether you directed Erbe's attention to that circumstance, and what, if anything, was said by him in explanation of that feature being found in the model.

A. At the time Mr. Erbe gave it to me on the morning of the 24th of July, in Mr. Jones' presence, for the reason that Mr. Jones seemed disinclined to have me bring the model with me, I did not open it to examine it, but put it in my pocket, and told Mr. Erbe I would see him that evening in Birmingham. I went to the hotel immediately, and there examined the model. Discovering this spiral spring on the tail of the latch-bolt, I thought it unnecessary in connection with this divided hub for the purpose of reversing the latch. I did see Mr. Erbe that evening at the office of A. B. Stevenson, in Birmingham, and called his attention to this point. He said that the latch-bolt, with its washers and spring, was one that the Jones & Nimick Manufacturing Co. used in another lock, and as a matter of convenience in making this model, he used it rather than make one on purpose that did not have the spring, supposing it to be immaterial to me, provided the hub fully exhibited his invention.

M. J. WOODRUFF.

Subscribed and sworn to before me this 6th day of February, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

Defendants rests.

113 United States circuit court, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

Defendants' testimony in reply.

APRIL 30, 1869—11 *a. m.*

Present, Mr. Gifford, of counsel for complainant, and Mr. Thurston and Mr. Law, of counsel for defendants.

WILLIAM ALLPORT, a witness of lawful age, produced on the part of the defendants, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and being examined by Mr. Thurston, of counsel for defendants, deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is William Allport. I am 59 years of age. I reside in New Britain, Connecticut. I am a pattern-maker by occupation.

Q. 2. Were you at any time in the employ of the Branford Lock Works, or the Squire & Parsons Manufacturing Company?

A. Yes.

114 Q. 3. During what years?

A. Part of 1859, 1860, and 1861.

Q. 4. When did you go to Branford in the employment of the company?

A. In the fall of 1859.

Q. 5. When did you take your family to Branford?

A. In May, 1860.

Q. 6. Did you go to housekeeping with your family, and if so, whose house did you occupy?

A. I went to housekeeping with my family, and occupied Mr. Nichols' house?

Q. 7. How long did you remain in the occupation of that particular house?

A. Until the 1st day of April, 1861.

Q. 8. Did you move to any other house, and whose?

A. I moved into Mr. Granniss' house.

Q. 9. What was your employment with the Squire & Parsons Manufacturing Company?

A. Pattern-making.

Q. 10. Was that your trade?

A. It was one of the branches of my trade.

Q. 11. Were you employed exclusively in pattern-making?

A. Yes; exclusively.

Q. 12. When did you first hear or know that W. S. Kirkham had invented an improvement in reversible latches?

A. Previous to the first of April, 1861, and not until after I had done some work on a lock for the purpose of making a reversible latch.

Q. 13. What connection had William S. Kirkham, if any, with the company?

A. I never knew positively what his connection was, other than he used to pay. I always got my money from him. I took him to be a sort of secretary and treasurer also.

Q. 14. Was he a practical mechanic?

A. I think not. I never knew him as such.

115 Q. 15. Was Mr. A. M. Hill in the employ of the company at that time, and what was his position?

A. He was in the employ of that company as superintendent.

Q. 16. Look at the lock, Complainant's Exhibit C, now shown to you, and state whether you did any work for the patterns of that lock; and if so, what you did.

A. I put in the square stump on which the point of the feather-spring bears with a V slot in it to receive the point of said spring; also two small stumps to guide the tail of the latch, moved the stump, or put in a new stump (I could not say which, positively,) a proper distance from the front to make a fulcrum for the lever.

Q. 17. What was the object in so constructing the stump to receive the end of the feather-spring?

A. It was to prevent the springs flying out and interfering with the lever, when working the latch.

Q. 18. Fix the time, as near as you are able, and by reference to any circumstances, at which you did this work.

A. It was previous to my moving from Nichols' house, not more than five or six weeks previous to that time; it may be less.

Q. 19. What circumstance in connection with moving from Nichols' house remains in your mind as a prominent fact?

A. The fact of my living in Nichols' house only eleven months, and his considering that I had hired the place for one year. He said I ought to pay him one more month's rent. I refused to do so, and he was displeased in consequence.

Q. 20. Who requested you to do this work upon the lock?

A. Mr. Hill.

Q. 21. What did he request you to do?

116 A. Attach a lever to the latch-tail, so that it would work when in or out, and turn around by drawing it out, so as to reverse the latch at pleasure, to answer for right or left hand.

Q. 22. Was it, or not, material for the operation of such a latch that the end of the feather-spring should be held fast in a slot instead of resting against the lever?

(Objected to as leading.)

A. It was necessary to prevent the spring striking the lever and becoming useless.

Q. 23. In any of the patterns of locks made before that time by that company, did any have the slotted stump?

A. They might have had a slotted stump, but it was a stump like many locks have that are made now. *This* that I put in were two small stumps. There were locks made with one stump, having a half-round groove in it for the latch-tail to lie in.

Q. 24. My question referred to the slotted stump, in which the end of the feather-spring rests, and not to the other stumps to which you referred as being guides for the latch-tail. And with this explanation I will ask if any of the patterns of locks made by the company up to this time had a stump for the feather-spring made with a slot or V-shaped groove to receive the end of the feather-spring?

A. Not to my knowledge.

Q. 25. Had you before this time worked upon the patterns for the locks made by the company? Were you or not familiar with all their patterns?

A. I was quite familiar with their patterns, and worked on locks and all other patterns.

Q. 26. When Mr. Hill requested you to work on the patterns of this lock, did it or not have a divided hub? and, if so, was it in the form shown in Complainant's Exhibit C, or in the form shown in the drawings attached to the Kirkham patent of June 11, 1861?

A. It was in the form of this in Exhibit C. This may be the one.

117 Q. 27. What differences do you observe between the two?

A. The spring H, shown in the patent, each end bearing on a part of the hub. That is all the difference I recognize now. The spiral spring at the back of the hub, between the part of the hub, is another difference.

Q. 28. Which has the flat spring H, and which has the spiral spring?

A. The one shown in the patent has the flat spring H, and the model, Exhibit C, has the spiral spring.

Q. 29. Are you confident that the work which you have described as having been done by you, upon the patterns for this lock, was done not earlier than four or five weeks before the 1st of April, 1861?

A. Yes.

And being cross-examined by Mr. Gifford, of counsel for complainant, he deposes and says as follows:

Cross-q. 30. Where is the Mr. Hill whom you refer to, and what is his first name?

A. I understand him to be in Pittsburg, Pennsylvania. His name is Albert.

Cross-q. 31. When did you see him last?

A. Nearly four years ago.

Cross-q. 32. Where is the Mr. Nichols whose house you say you occupied, and what is his first name?

A. I do not know his first name. I believe him to be in Branford now. The last I saw of him was in Branford.

Cross-q. 33. When did you last see him, and when did you last leave Branford?

A. I last saw Nichols in the Masonic Lodge, in Branford. It may not be over a year ago. It was on one of my visits to my daughter who lives there. I last left Branford a very short time since—not over three months, I think.

Cross-q. 34. Describe the house of Mr. Nichols that you occupied and its situation.

118 A. It was an old white house; very large door-yard; a large old-fashoned barn. It was situated nearly opposite the grocery store that was kept by Mr. Rogers, on the same street that the Lock Co.'s shop was on, and on the same side.

Cross-q. 35. Had you ever known Kirkham before you went to Branford to work?

A. No, sir.

Cross-q. 36. Do you mean to be understood as swearing that he was not a mechanic by trade?

A. I do not.

Cross-q. 37. Was Kirkham still at Branford when you left employment at that place?

A. It might be that he was. He was very sick and went to the Bermudas, I believe. His house and family were at Branford.

Cross-q. 38. When did you leave employment at Branford?

A. Some time early in the spring of 1861; about the time they failed, I think. It might not have been until June.

Cross-q. 39. How many employees had Squire & Parsons while you worked for them; and what were their names, and where are they now?

A. I do not know the exact number. I should think as many as forty, including the foundry. I do not recollect many of their names. Mr. Burchell was foreman of the iron-foundry. Mr. Briggs was machinist and tool-maker. James Graham had charge of the brass-foundry. Mr. Day was one of the fitters-up of locks. My son Wallace was also fitting up locks. I probably could think of more in time. It would be impossible for me to say where they are now. Mr. Burchell is now in the employ of J. B. Sargent & Co., of New Haven, Conn. Mr. Graham is also in New Haven, carrying on business for himself as brass-founder.

119 Cross-q. 40. Have you stated all the circumstances by which you fix the time when you say Hill requested you to make alterations in a lock?

A. I might have added that it was about the time of the inauguration of Lincoln.

Cross-q. 41. Can you add anything more on that subject?

A. I think not—not that I should consider necessary. I remember George Prout speaking to me on the subject of the election and inauguration of Lincoln, he being on the opposite side of politics to myself.

Cross-q. 42. Was it not possible for George Prout to speak to you about the inauguration without Hill's requesting you to alter a lock?

A. Certainly it was.

Cross-q. 43. May it not have been at least two months prior to your leaving Nichols' house, when Hill requested you to make the alterations in the lock?

A. I don't think it could.

Cross-q. 44. Why do you not think so?

A. Well, I have a recollection of it, and the time was so near to the inauguration of Lincoln that that calls my recollection to it more fully than any other circumstance. George Prout was one of the employees of the company, having charge of the packing-room.

Cross-q. 45. Do you remember within some months the times of all the applications made to you to alter locks or patterns, or other things, while you were in the employment of that firm? If you do, enumerate them all, and give us the time of each.

A. That is something I cannot do. It was my business to alter or make anything they brought to me.

Cross-q. 46. How many locks, patterns, or other things did you alter while in the employment of that firm?

A. I could not tell any exact number. I made quite a number of new patterns, and altered over some patterns.

Cross-q. 47. There was considerable alteration and fixing different things there by way of improving them, was there not?

120 A. Yes; but not more than other establishments of the same kind.

Cross-q. 48. You say Mr. Hill brought you a lock, or requested you to make patterns for the alterations of a lock. Do you mean to swear that that was the identical lock which is marked Complainant's Exhibit C?

A. I do not mean to say it is; but if it is not, it is a fac-simile. It must have been cast from the pattern that was altered.

Cross-q. 49. Do you mean the whole lock is a fac-simile?

A. I mean the case in particular.

Cross-q. 50. Why do you mean the case in particular in contradistinction from the works?

A. Because that is the part that I worked on chiefly by putting in those stumps.

Cross-q. 51. Can you say that the works in Complainant's Exhibit C are a fac-simile of what Mr. Hill brought you?

A. Yes, with the exception of the points of the lever.

Cross-q. 52. How do the points of the lever in Exhibit C differ from the points of the lever in the one which he brought you?

A. I do not know that they do.

Cross-q. 53. What was the divided hub for, if you remember, in the lock which Mr. Hill brought you to make alterations in?

A. It was for the purpose of keeping the latch in its position, so that it could not be reversed when the spindle was in.

Cross-q. 54. Do you think that the alteration which you made, on request of Mr. Hill, improved the lock or made it any better?

A. Yes; it was so considered.

Cross-q. 55. In what respect, if you know?

121 A. In making that slot in the square stump to receive the point of the feather-spring was one improvement, and the two small stumps for the tail of the latch to slide between.

Cross-q. 56. What supported the points of the feather-spring before you made the slot in the square stump?

A. I believe it was a round stump, and the feather-spring was bent on the point to partly fit around it.

Cross-q. 57. Whom do you work for now in New Britain?

A. I work for North & Judd.

WM ALLPORT.

Subscribed and sworn to before me this 30th day of April, 1869.

JOSEPH GUTMAN, JR.,
Examiner, &c.

NEW YORK, *May* 25, 1869.

Present, counsel as before.

ALBERT M. HILL, a witness of lawful age, produced on the part of the defendant, having been by me first duly cautioned and sworn, and being examined by Mr. Thurston, deposes and says as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Albert M. Hill. I am 41 years of age; reside at Pittsburg, Pennsylvania; and am superintendent of a lock manufactory.

Q. 2. How long have you been engaged in the business of manufacturing locks, and what has been your experience with all the various branches of industry connected with that manufacture?

A. I have about 11 or 12 years' experience—very general experience. I have acted as moulder, pattern-maker, lock-maker, and manager.

122 Q. 3. Where are you now employed?

A. In Pittsburg, Pennsylvania, with the Jones & Nimick Manufacturing Company.

Q. 4. Where were you employed, and in what capacity, during the years 1860 and 1861?

A. During the year 1860 and spring of 1861, I was employed by the Squire & Parsons Manufacturing Company, at Bramford, Connecticut, as foreman of the lock-finishing department.

Q. 5. Were you acquainted with one W. S. Kirkham, the person named as patentee in the complainant's letters-patent in this case; and if so, when and where did you make his acquaintance?

A. I was. I made his acquaintance 10 or 12 years prior to the date of

his patent in his capacity as superintendent of Squire & Parsons' Manufacturing Company. He was one of the firm.

Q. 6. Were you intimately acquainted with him, or otherwise?

A. I was intimately acquainted with him.

Q. 7. Please look at the drawings attached to the letters-patent of said Kirkham, and state whether you recognize the same as a drawing of any improvement alleged to have been made by the said Kirkham, and for which letters-patent were obtained by him June 11, 1861?

A. I do.

Q. 8. State fully and particularly all that you know concerning the making of that invention or improvement by the said Kirkham, with particular reference to the time when such improvement was made by him?

A. I know that, about the 1st of March, 1861, Mr. Kirkham came up to the finishing-shop from the office below, and went to a bin containing brass hubs for locks, and taking one, came with it across to the pattern department, and commenced filing it close by where I was at work on patterns. I noticed him, and asked him what he was working at. He stated, in so many words, that he had an idea of a reversible lock,
123 and he was trying to work it out, or words to that effect. I told him if he would tell me what he wanted to do I would work it out for him. He then commenced to explain that he wished to make a divided hub in such a manner that the latch might be drawn forward so as to be reversed.

Q. 9. What next took place that you recollect?

A. He then stated he had the thing roughly sketched on paper down in the office, and would go down and get it, as perhaps it might aid me in getting his ideas, and he did so.

Q. 10. Please describe fully the sketch or drawing which he exhibited.

A. It was a rough sketch, very crude, and one of several others which he had made upon the same paper—not with the design of making patterns from, but to see how different devices might appear to his own eye.

Q. 11. Did the said Kirkham request you to render him any assistance in working out his idea? And if so, state what, if anything, you did for that purpose.

A. At my suggestion he gave the thing entirely into my hands. I made a wooden pattern to make one portion of the hub from, and the other portion was the part that he was at work with. I stated to him that he had better give it up to me, for the reason that it would require a wooden pattern to be made for the other part of the hub.

Q. 12. By reference to what circumstances are you able to fix the time as the 1st of March, 1861, when Kirkham exhibited his invention to you, and when you assisted him, as you have stated, in working out his idea?

A. Particularly from the fact that at that time we were very busy with our spring orders, so much so that to gain time to work upon this pattern I went to the factory, after working-hours in the evening, that I might be undisturbed by the frequent calls made upon me during the day in my capacity as foreman. I can fix the year very certainly by the fact that it was in May of this same year that the factory ceased operating.

124 Q. 13. How long a time was occupied in the getting out the patterns?

A. I should say not more than two weeks.

Q. 14. During that time state whether you had conferences on the subject with Mr. Kirkham.

A. I did.

Q. 15. Did his idea require explanation, or was the structure manifest from the sketch?

A. After his first explanation I comprehended pretty fully what he desired, without reference to the sketch or further explanation.

Q. 16. Were you acquainted with William Allport, and did he have any employment at this time in the factory?

A. I was. He was employed as pattern-maker.

Q. 17. State whether, in connection with the improvement required to be made in the hub, any work was required to be done upon the case within which such works were to be placed; and if so, what was required?

A. Some slight alterations suggested themselves, in order to adapt the case to the proper working of this divided hub. I do not remember particularly what they were, except one alteration to allow the end of the latch-spring to rest in a V-shaped notch or slot, instead of swinging around against a round stump when the latch is drawn forward.

Q. 18. Do you recollect by whom such changes in the case were made?

A. The changes in the case, which were slight, were all made by said Allport.

Q. 19. How many models or completed locks were made, at or about this time, exhibiting the Kirkham improvement?

A. There were certainly two, and, if I remember right, but two.

Q. 20. State what was done with those models so made, if you know.

125 A. One model was sent to Munn & Co., in connection with an application for a patent, and, I suppose, went to Washington. My impression is that the other was sent to Charles A. Miller, of Philadelphia.

Q. 21. Please look at the model now shown you, marked Complainant's Exhibit C, J. G., j'r, and state whether you recognize the same as a lock which you have ever seen before.

A. Most certainly.

Q. 22. State when and where, and what you know about it.

A. It is one of the two models made in the spring of 1861.

Q. 23. Are you confident that it is?

A. I am.

Q. 24. Please state whether you observe anything peculiar in the location of the spiral spring belonging to the hub, as compared with the location of the spring found in the drawing of the patent; and if so, point out the difference.

A. The difference lies in the hub in the model having a spiral spring in the rear of the hub, and the hub in the drawing having an elliptic spring in front of the hub.

Q. 25. Which of those two arrangements was first made?

A. I can't be positive on that point, but remember distinctly that this alteration, either one way or the other, made a difference of about a week in the completion of the models.

Q. 26. Do you notice, also, any difference in the arrangment between the lock shown in the Patent-Office drawing and Exhibit C, with respect to the connection of the vibrating lever with the latch-tail? and if so, point out such difference, and state whether you recollect any facts in connection with the change from one arrangement to the other.

A. The latch in the drawing has a heavy wire tail end, with a turned or milled groove in connection with the lever, while the latch in
126 the model has a light wire tail end, and is attached to the lever by a thin piece of band or sheet-iron, bent at either end and riveted upon the latch tail end with a slot in connection with the latch-lever. My impression is that the difficulty of milling the groove of the heavy wire, and the liability of the lever slipping out of the groove, suggested to my mind that the plan as shown in model, Exhibit C, was both surer in its operation and cheaper, and more simple in its construction. My impression is that the model, Exhibit C, is the later production.

Q. 27. With reference to the spring in connection with the hub, which was considered better by Mr. Kirkham, the flat spring shown in the Patent-Office drawing, or the spiral spring shown in the model, Exhibit C?

A. I don't remember that he expressed any opinion.

Q. 28. Do you recollect whether Kirkham expressed any desire or anxiety to procure a patent for his improvement?

A. He did. He intended from the first to get it patented, and that was the end he had in view in making his model.

Q. 29. Before the time that you have referred to as the occasion when Kirkham exhibited his improvement to you, had you heard from any source that Mr. Kirkham had made any improvement of this character in reversible latches, or had any drawing of this improvement?

A. I had not.

Q. 30. Have you any reason for supposing that the sketch shown to you by Mr. Kirkham preceded, by any considerable time, the making of the model; and what facts are within your knowledge from which an inference as to the length of time that the sketch preceded the model could be drawn?

A. I have no such reason. I would infer from the manner of his speaking of his sketch that it had not been made more than two or three hours previous at the outside.

127 Q. 31. Was Mr. Kirkham a practical mechanic, accustomed to work at the bench?

A. He was not.

Q. 32. What reason have you to suppose that one of these model locks was sent to Charles A. Miller?

A. I have the impression that Kirkham requested one to be made to be sent to Miller.

ALBERT M. HILL.

Subscribed and sworn to before me.

JOSEPH GUTMAN, J'R,
Examiner.

Adjourned to the 26th, at 11 a. m.

NEW YORK, *May* 26, 1869.

Present, counsel as before.

Cross-examination of the witness (who was present to be examined) waived by counsel for complainant.

129 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Friday, the 19th day of November, in the year of our Lord one thousand eight hundred and sixty-nine.

Present, the honorable Samuel Blatchford, dist. judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

This cause coming on to be heard on pleadings and proofs—
Mr. George Gifford argues the case on the part of the complainant.
Mr. B. F. Thurston argues the case on the part of the defendants.

130

131 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Saturday, the 20th day of November, in the year of our Lord one thousand eight hundred and seventy-one.

Present, the honorable Samuel Blatchford, dist. judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

This cause being still on hearing—
Mr. B. F. Thurston concludes his argument on the part of defendants.
Mr. George Gifford is heard in reply.
C. A. V.

132

133 At a stated term of the circuit court of the United States for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on the 19th day of January, 1870.

Present, Hon. Samuel Blatchford, judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

This cause having been brought to a final hearing upon the pleadings and proofs, and George Gifford, esq., having been heard on the part of the complainant, and B. F. Thurston, esq., and L. D. Law, esq., on behalf of the defendants, and the same having been duly considered by the court:

Now, at this term of the court, on motion of S. D. Law, solicitor for the defendants, it is found and hereby ordered, adjudged, and decreed, that the re-issued letters-patent, No. , granted to Kirkham, on the , and assigned by mesne assignments to the said Paul
134 C. Coffin, are invalid for want of novelty as to the inventions claimed therein, and that the said letters-patent, *is*, in so far as

they purport to secure to said complainant the exclusive use of the invention or devices described in the claims thereof, are void.

And it is further ordered, adjudged, and decreed, that the bill of complaint in this cause be, and the same hereby is, dismissed upon the merits thereof, as against each and every of the defendants.

And it is further ordered, adjudged, and decreed that the said complainant pay to the defendants the costs of this suit to be taxed, and that, in default of payment thereof, the said defendants have execution therefor according to law.

SAM'L BLATCHFORD, *Judge.*

(Endorsed:) Circuit court U. States, southern dist. New York. Paul C. Coffin vs. James B. Ogden, Lucius Woodruff. Decree filed Jan'y 19, '70.

135 At a special term of the circuit court of the United States within and for the southern district of New York, held at the United States court-rooms, Nos. 39 & 41 Chambers st., city of New York, on the 14th day of January, 1871.

Present, Hon. Samuel Blatchford, judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN AND LUCIUS WOODRUFF.

This cause having been brought to a final hearing upon the pleadings and proofs, and George Gifford, esq., having been heard on the part of the complainant, and B. F. Thurston, esq., and S. D. Law, esq., on behalf of the defendants, and the same having been duly considered by the court:

Now, at this term of the court, on motion of S. D. Law, solicitor for the defendants, it is found and hereby ordered, adjudged, and decreed, that the re-issued letters-patent, No. 1390, granted to William S. Kirkham, on the 27th of January, 1863, for an improvement in locks and latches, and assigned by mesne assignments to the said Paul C. Coffin, are invalid for want of novelty as to the inventions claimed therein, and that the said letters-patent are, in so far as they purport to secure

136 the said complainant the exclusive use of the invention or devices described in the claims thereof, void.

And it is further ordered, adjudged, and decreed, that the bill of complaint in this cause be, and the same hereby is, dismissed upon the merits thereof, as against each and every of the defendants.

And it is further ordered, adjudged, and decreed, that the said complainant pay to the defendants the sum of two hundred and thirty-six dollars seventy cents, the taxed costs of this suit, and that, in default of payment thereof, the said defendants have execution therefor according to law.

SAM'L BLATCHFORD.

(Endorsed:) Circuit court of the United States, southern district of New York. Paul C. Coffin vs. James B. Ogden & Lucius Woodruff. Order filed January 14, 1871.

137 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York,

on the 22d day of April, in the year of our Lord one thousand eight hundred and seventy-one.

Present, the honorable Samuel Blatchford, dist. judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

On reading and filing consent of the solicitors of the respective parties in the above cause—

Ordered, that the decretal orders heretofore entered in the above cause, on the 19th day of January, 1870, and on the 14th day of January, 1871, be, and the same are hereby, directed to be taken from the files of the court and cancelled.

(S'd) SAM'L BLATCHFORD.

(Endorsed:) Circuit court U. States, south. dist. New York. Paul C. Coffin vs. James B. Ogden & Lucius Woodruff. Order to take papers from files. Filed April 22, 1871.

138

139 At a stated term of the circuit court of the United States for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on the 22d day of April, 1871.

Present, Hon. Samuel Blatchford, judge.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

This cause having been brought to a final hearing upon the pleadings and proofs, and George Gifford, esq., having been heard on the part of the complainant, and B. F. Thurston, esq., and S. D. Law, esq., on behalf of the defendants, and the same having been duly considered by the court:

Now, at this term of the court, on motion of S. D. Law, esq., solicitor for the defendants, it is found and hereby ordered, adjudged, and decreed that the bill of complaint in this cause be, and the same is, dismissed, as against each and every of the defendants.

And it is further ordered, adjudged, and decreed that the said
140 complainant pay to the defendants the sum of two hundred and thirty-six dollars and seventy cents, the taxed costs of this suit, and that, in default of payment thereof, the said defendants have execution therefor according to law.

SAM'L BLATCHFORD.

(Endorsed:) Circuit court of the United States, southern district of New York. Paul C. Coffin vs. James B. Ogden & Lucius Woodruff. Decree. Filed April 22, '71.

141 United States circuit court, southern district of New York.

PAUL C. COFFIN
vs.
JAMES B. OGDEN & LUCIUS WOODRUFF.

The complainant, Paul C. Coffin, hereby appeals to the Supreme Court of the United States from the decree of the circuit court in this

cause, and from the whole of said decree, because, as he alleges, the said decree is contrary to law, erroneous, and void; and he prays that a transcript of the bill, answer, depositions, and other proceedings in the cause be transmitted to the said Supreme Court, and that a citation to the defendants may be issued, citing them to be and appear at said Supreme Court, to be held at Washington, on the first Monday of December, 1871, to show cause, &c.

GEO. GIFFORD,
Sol'r and of Counsel for Complainant.

(Endorsed:) U. S. circuit court, south. dist. New York. Paul C. Coffin vs. James B. Ogden and Lucius Woodruff. Appeal. Filed April 29, 1871.

142

143 Know all men by these presents that we, Paul C. Coffin, of the city, county, and State of New York, and Augustus Pettibone, of said city, are held and firmly bound unto James B. Ogden and Lucius Woodruff in the sum of two thousand five hundred dollars, to be paid unto the said James B. Ogden and Lucius Woodruff, their executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this 28th day of April, 1871.

Whereas Paul C. Coffin has appealed, or is about to appeal to the Supreme Court of the United States from the decree of the circuit court of the United States for the southern district of New York, in a cause wherein the said Paul C. Coffin was complainant, and the said James B. Ogden and Lucius Woodruff were defendants:

Now, therefore, the condition of this obligation is such, that if the above-named appellant shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his appeal good, then this obligation shall be void; otherwise to remain in full force and effect.

PAUL C. COFFIN. [L. S.]
AUGUSTUS PETTIBONE. [L. S.]

Sealed and delivered in the presence of—
W. C. WITTER.

144 SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

On this 28th day of April, 1871, before me, appeared Paul C. Coffin and Augustus Pettibone, to me known to be the individuals described in and who executed the foregoing bond, and each of them acknowledged that he executed the same.

W'M CLITUS WITTER,
Notary Public, N. Y. Co.

I approve the within bond as satisfactory security, and order the same to be filed April 29th, 1871.

SAM'L BLATCHFORD,
District Judge.

(Endorsed:) U. S. circuit court, south. dist. N. Y. Paul C. Coffin vs. James B. Ogden and Lucius Woodruff. Bond on appeal.

The within bond is approved.

S. D. LAW,
Def'ts' Solicitor.

Filed April 29, 1871.

145 THE UNITED STATES OF AMERICA, *ss:*

To JAMES B. OGDEN and LUCIUS WOODRUFF, greeting:

Whereas from the whole of the decree lately made by the circuit court of the United States for the southern district of New York, in a certain cause wherein Paul C. Coffin was complainant, and you were defendants, relating to a certain patent granted to one W. S. Kirkham, the said Paul C. Coffin hath appealed to the Supreme Court of the United States, and hath filed his said appeal in the clerk's office of said circuit court, at New York, and hath given good and sufficient security to prosecute his said appeal to effect, and answer all damages; therefore you are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday in December next, pursuant to said appeal, to show cause, if any there be, why the decree so appealed from as aforesaid should not be corrected and reversed, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Samuel Blatchford, a judge of said circuit court, at the city of New York, this 29th day of April, 1871.

SAM'L BLATCHFORD.

146 (Endorsed:) U. S. circuit court, southern district of N. Y. P. C. Coffin vs. James B. Ogden and Lucius Woodruff. Citation. Due service of a copy of the within is hereby admitted. May 8, 1871.

S. D. LAW,
Def'ts' Sol'r.

Filed May 8, 1871.

(Indorsement on cover:) No. 461. Paul C. Coffin, appellant, vs. James B. Ogden and Lucius Woodruff. S. New York, C. C. U. S. Filed 2nd December, 1871.